

[2022 LiveLaw \(SC\) 606](#)

IN THE SUPREME COURT OF INDIA

M.R. SHAH; J., B.V. NAGARATHNA; J.

Writ Petition (Civil) No. 448/2022; 14-07-2022

COL. VINEET RAMAN SHARDA & ORS. versus UNION OF INDIA & ORS.

Army Act, 1950 - Army Regulations - Regulation 349 - Pending the Court of Inquiry, an opportunity of hearing not required to be afforded before suspending Army officers - Under Regulation 349 also, there is no requirement of such a procedure to be followed.

For Petitioner(s) Col. Amit Kumar, Adv. Mr. Shashibhushan P. Adgaonkar, AOR Mr. Omkar J. Deshpande, Adv. Mr. Sunil Kumar, Adv. Mr. Rohan Wadhwa, Adv. Ms. Pooja Sharma, Adv.

For Respondent(s) Mr. Tushar Mehta, SG Mr. K.M.Nataraj, ASG Mr. Rajat Nair, Adv. Mr. Sanjay Nuli, Adv Mr. Sharath Nambiar, Adv. Mr. N. Mahapatra, Adv. Mr. Anuj Srinivas Udaya, Adv. Mr. Arvind Kumar Sharma, AOR Mr. Digvijay D., Adv.

ORDER

By way of this petition under Article 32 of the Constitution of India, the petitioners have prayed for the following reliefs-

- A.** Issue Writ, Order, or Direction in the nature of certiorari to quash the illegal, unlawful and arbitrary Suspension Orders passed against the Petitioners;
- B.** Issue Writ, Order, or Direction in the nature of Mandamus to return all the digital assets of the Petitioners which has been confiscated in wrong manner and without his consent;
- C.** Issue Writ, Order, or Direction in the nature of Mandamus to issue a certificate of privacy in favour of the Applicant stating that no information/report will be disclosed in public domain;
- D.** pending hearing and till final disposal of this Writ Petition, the effect, operation and implementation of the impugned Suspension orders dated 08.05.2022 and 17.05.2022 respectively may kindly be stayed;
- E.** Issue Writ, Order, or Direction for grant of compensation for mental agony and embarrassment faced by the petitioner officers and to grant litigation expenses;
- F.** To pass such other and further orders which their lordships may deem fit and proper in the existing facts and circumstances of the case.”

Learned counsel appearing for the petitioners relying upon relevant provisions of the Army Act, 1950 and the Army Rules, 1954 has vehemently submitted that by suspending the petitioners, the petitioners can be said to be under `open arrest'. It is also the case on behalf of the petitioners that before passing the impugned order of suspension, no opportunity of hearing has been given to the petitioners. Reliance is placed upon Regulation 349 also.

Shri Tushar Mehta, learned Solicitor General who has appeared on caveat, has submitted that there are very serious allegations against the petitioners and, therefore, pending the Court of Inquiry, the petitioners have been suspended. He has stated at the Bar that the Court of Inquiry has been constituted and the petitioners' case shall be dealt with in accordance with law.

Having heard learned counsel for petitioners and Shri Tushar Mehta, learned Solicitor General and having gone through the relevant provisions of the Act and the Rules, we do not accept the submissions on behalf of the petitioners that before suspending the petitioners pending the Court of Inquiry, an opportunity of hearing was required to be afforded to the petitioners. Even under Regulation 349 also, there is no requirement of such a procedure to be followed. The petitioners can be suspended pending the Court of Inquiry, which as stated by Shri Tushar Mehta, learned Solicitor General has already been constituted and inquiry is going on. In that view of the matter, the petitioners are not entitled to any relief at this stage pending proceedings before the Court of Inquiry, as claimed in the present petition. However, it is observed that the petitioners case shall be dealt with in accordance with law and after following due procedure as required under the Army Act and the Rules made therein.

With this, the present petition stands dismissed.

Pending application(s), if any, shall stand disposed of.

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)