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IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

ON THE 20TH DAY OF AUGUST, 2021

BEFORE

HON'BLE MR. JUSTICE SURESHWAR THAKUR

CIVIL WRIT PETITION No. 878 of 2017

Between:-

VIKAS SHARMA
SON OF SH. DEV RAJ SHARMA,
R/O VILLAGE CHHAROL,
P.O PRAGPUR, TEHSIL DEHRA,
DISTRICT KANGRA, H.P PRESENTLY
WORKING AS WARDER DISTRICT
JAIL DHARAMSHALA.

..... PETITIONER.

(BY MR. VIJAY KUMAR ARORA,
ADVOCATE)

AND

1. UNION OF INDIA THORUGH
SECRETARY (HOME),
NORTHBLOCK, NEW DELHI-110001
2. THE GENERAL MANAGER, INDIA
GOVERNMENT MINT, ALIPORE,
KOLKATA, 700053.
3. STATE OF HIMACHAL PRADESH
THORUGH PRINCIPAL SECRETARY
(HOME) SHIMLA.H.P.
4. THE DIRECTOR GENERAL
(PRISONS) GOVT. OF H.P. SHIMLA.

.....RESPONDENTS

(BY. MR. RAJINDER THAKUR, CGC
FOR RESPONDENTS NO. 1 AND 2)

(BY MR. ASHWANI SHARMA, MR.
NARENDER GULERIA AND MR.
HEMANT VAID, ADDL.A.GS WITH MR.
VIKRANT CHNDEL AND MR.

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GAURAV SHARMA, DY.A.GSFOR
RESPONDENTS NO. 3 AND 4)

RESERVED ON 11.8.2021
DECIDED ON: 20.8.2021

This petition coming on for orders this day, the Court passed the following:-

ORDER

Through, the instant petition the writ petitioner espouses, for the granting of the hereinafter extracted main reliefs No. (a) and (b):-

- (a) "That non-grant of monetary as well as other benefits to the petitioner which are admissible to the recipient of this prestigious award from the announcement of the Award shows clear cut discrimination with him and therefore, the petitioner humbly prays for appropriate directions.
- (b) That the action on the part of the respondents showing disrepute to this prestigious award by sending it through courier and thereafter presented the same to the petitioner by the Hon'ble Chief Minister on the celebrations of Himachal Day after the gap of more than three years against the norms prescribed for the conferment/presentation of the Award. The petitioner is entitled for all the consequential benefits of this award and other benefits as are applicable to recipient of this award but the same was not given to him in view of this the action of the respondents are arbitrary

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unconstitutional and thereby causing grave injustice to the petitioner.”

2. The writ petitioner, as revealed by Annexure P-3, became nominated in the year 2000, for gallantry service medal. The awarding of the medal to the petitioner, rather occurred much belatedly therefrom, in as much, as, in the month of 2009, April, and, earlier thereto it became sent through Courier to the petitioner. The afore manner of despatch of the honour concerned, upon the writ petitioner aroused grievances in the writ petitioner, on the ground that it militates, the mandate carried in Annexure P-4, in as much, as, vis-à-vis, an echoing occurring therein, that the presentation of gallantry medal to the awardee(s) concerned rather being during ceremonial functions of Independence Day and Republic Day. In consequence thereof, the petitioner became conferred the gallantry award at the Himachal Day function, held at Rohru, on 15.4.2010, by the then Chief Minister.

3. The writ petitioner avers, that he has to be also bestowed with the benefits as become borne in Annexure P-14. Consequently, he prays that the benefits echoed in Annexure P-14, be made available, to him through a mandamus being made upon the respondents.

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4. The respondents No.3 and 4 in their reply meted to the writ petition, contend that there was no inordinate delay in the conferment of gallantry medal, upon, the writ petitioner. Contrarily in their reply, they contend that the conferment of gallantry award, upon the writ petitioner, was a sequel to an order emanating on 26.1.2007 from the Secretariat of the President of India. A contention is also reared in the reply, that the delayed conferment, if any, of gallantry medal, upon, the writ petitioner, in as much, as, in Republic Day or in Independence Day, was a sequel of the General Manager, India Government Mint, Alipore, Kolkata, delaying the manufacture of medals. The respondent also explicates therein, that even the afore delay on the part of General Manager, India Government Mint, Alipore, Kolkata, is a sequel to the latter rather not receiving an intimation, from the Government of India, Ministry of Home Affairs, hence with respect to the afore gallantry award being made vis-à-vis the writ petitioner, and, in as much as, in the notification, as emanated from the Secretariat of the President of India, hence nominating therein recipients of gallantry awards/medals, rather the name of the writ petitioner not being carried therein.

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5. The afore impediment besetting General Manager, India Government Mint, Alipore, Kolkata, the manufacturer of the Gallantry medal, in his not earlier thereto manufacturing it, is, unfolded in Annexure P-6 on 4.4.2009. Even though, the afore contention reared in the afore reply on affidavit furnished to the writ petition, does make prima-facie valid, the factum of delayed manufacturing of gallantry medal appertaining to the writ petitioner. However, the factum of the staff concerned working with General Manager, India Government Mint, Alipore, Kolkata, rather dispatching the gallantry medal directly to the writ petitioner through courier, does amount to breach of protocol, vis-à-vis, the awarding(s) of conferment of honours upon the writ petitioner, and, as becomes enshrined in Annexure P-4, wherein an echoing occurs, that awardees concerned, are to be bestowed apposite honours, only during a ceremonial function of Republic Day or Independence Day. However, the making of Annexure P-4 though is subsequent to the conferment of the honour upon the writ petitioner, honours whereof became conferred upon him in the year 2007, even if it be so, since the celebrity concerned has been through Annexure P-3, been accepted to be a recipient of the honour of Gallantry

medal rather only in ceremonial function of Republic Day or Independence Day. Consequently, the afore mode does comprise the befitting manner of honoring a celebrity, and, hence holds retrospective effect. Therefore in no manner the dispatching to him through courier of the medal to his abode from the General Manager, India Government Mint, Alipore Kolkata, can become the befitting manner of honoring a celebrity with the presidential conferment of a gallantry award. The afore manner has to be deprecated.

6. The official concerned working with co-respondent No.2, is to be held responsible, for lapse (supra) and, respondent No.2 is directed to issue a show cause notice upon the Official concerned, working at General Manager, India Government Mint, Alipore, Kolkata, as to how he breached the protocol occurring in Annexure P-4.

7. Since apart from conferment of the gallantry medal, upon the writ petitioner, the celebrities are to be purveyed the benefits embodied in Annexure P-14. Consequently, in terms thereof, subject to apposite entitlement of the writ petitioner, the respondents

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concerned are directed to forthwith purvey benefits thereof, through theirs making communications to the writ petitioner.

8. The conferment of gallantry medal, upon the writ petitioner, did come to be made upon him, by the then Chief Minister at a State Level function i.e Himachal Day function held at Rohru. However, when for promoting acts of bravery and courage rather gallantry awards are made upon the celebrity concerned. Therefore, for ensuring that the spirit of bravery does not ever ebb, rather through delays in the conferment of gallantry award, upon the celebrity concerned. Moreover since the petitioner has been led to approach this Court, this Court deems it fit, to make a mandamus, upon the respondents to upon reflection of name(s) of the apposite awardees(s), in the apposite list, to ensure that with utmost promptness, the medals are manufactured, and, they shall ensure that the awarding of medal, upon, the recipients being promptly done, only at Republic Day or Independence day functions. The promptness in the manufacturing of the medal and also theirs prompt conferment, upon the awardees concerned only in Republic Day function and Independence Day function, will ensure that the act(s) of bravery remain enlivened, especially when it is the salutary

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purpose behind the honoring of celebrities through medals or gallantry awards.

9. In view of the above, the present petition stands disposed of alongwith all pending applications.

20th August, 2021
(priti)

**(Sureshwar Thakur),
Judge.**

High Court of HP