

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Criminal Writ Petition No. 52/2022

Ajit Singh

-----Petitioner

Versus

1. State of Rajasthan, Home Dept. Jaipur.
2. The Director General, (Jail), Jaipur.
3. The District Collector, Bhilwara.
4. The Superintendent, Central Jail, Ajmer.

-----Respondents

For Petitioner(s) : Mr. S.D. Chavariya
For Respondent(s) : Mr. Anil Joshi, AAG

**HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MS. JUSTICE REKHA BORANA**

Order

11/03/2022

The instant writ petition has been preferred by the convict petitioner Ajit Singh for assailing the adverse recommendations dated 19.01.2022 issued by the Open Air Committee, Government of Rajasthan, Jaipur whereby, the application preferred by the convict petitioner for being sent to the Open Air Camp was rejected.

We have heard and considered the submissions advanced by the petitioner's counsel and the learned AAG Shri Anil Joshi and, have gone through the impugned order and the material placed on record.

Earlier also, the application filed by the petitioner for being sent to the Open Air Camp was rejected by the Committee upon which, D.B. Criminal Writ Petition No.563/2021 was filed to challenge the same. The said writ petition was accepted by this Court vide order dated 01.12.2021. The adverse recommendations were quashed and the respondents were directed to reconsider the case of the convict petitioner for being sent to the Open Air Camp in light of this Court's Judgment in the case of **Nirbhay Singh @ Nabbu Vs. State (D.B. Criminal Writ No.38/2018), decided on 04.04.2018** and without resorting to the restrictions contained in Rules 3 and 4 of the Rajasthan Prisoners Open Air Camp Rules, 1972. The Committee reconsidered the case of the petitioner and rejected the application in the following manner:

"6. अजीत सिंह पुत्र महेन्द्र सिंह, के.का. अजमेर

बंदी द्वारा दिनांक 31.12.2020 तक 07 वर्ष 08 माह 27 दिवस की सजा मय परिहार के भुगती है।

दिनांक 22.09.2021 को आयोजित बंदी खुला शिविर समिति की बैठक में बंदी के प्रकरण पर विचार कर समिति द्वारा "बंदी के प्रतिबंधित धारा 376 आई. पी.सी. में आजीवन कारावास से दण्डित किये जाने से नियमानुसार पात्र नहीं होने से बंदी को खुला बंदी शिविर में नहीं भेजे जाने का निर्णय लिया गया था।"

उक्त निर्णय के विरुद्ध दायर याचिका में न्यायालय द्वारा पारित आदेश की पालना में बंदी के प्रकरण पर विचार किया गया। बंदी के अंतर्गत धारा 376 आई. पी.सी. में आजीवन कारावास से दण्डित किये जाने से वह राजस्थान कैदी खुला शिविर नियम, 1972 के नियम 4 (क) के अंतर्गत (यदि वह नियम 3 में विनिर्दिष्ट कोटियों की किसी कोटी में नहीं आता) खुला बंदी शिविर में भेजे जाने हेतु पात्र नहीं है।"

Manifestly, we are of the firm view that the Committee failed to consider the case of the petitioner in light of the order dated 01.12.2021. No reference was made to the Division Bench Judgment of this Court in the case of **Nirbhay Singh (supra)**

while rejecting the petitioner's application. The restrictions contained in Rules 3 and 4 were again relied upon for rejecting the application. Another reason has been assigned in the order dated 19.01.2022 that the convict is aged about 27 years. Other convicts are residing in the Open Air Camp with their wives and daughters and hence, the Superintendent of Jail has not recommended the case of the petitioner for being sent to the Open Air Camp. We are of the firm opinion that this observation made by the Committee in the adverse recommendations is absolutely extraneous and unwarranted. Merely because the convict is of young age and other ladies/ girls are living in the Camp, that by itself would not imply that the accused would misbehave with them. Needless to say that if any convict is found behaving in an improper manner while being at the Open Air Camp, the indulgence so granted can always be cancelled because the opportunity to continue at the Open Air Camp is always subject to display of good behaviour by the convict.

As a consequence, the impugned recommendations 19.01.2022 issued by the Open Air Committee, Government of Rajasthan, Jaipur are hereby quashed qua the petitioner. It is hereby directed that the convict petitioner shall forthwith be sent to the suitable Open Air Camp.

The writ petition is allowed accordingly.

(REKHA BORANA),J

(SANDEEP MEHTA),J