

**IN THE COURT OF VIKAS DHULL, SPECIAL
JUDGE (PC ACT) (CBI)-23 (MPs/MLAs Cases)
ROUSE AVENUE COURT COMPLEX, NEW DELHI**

**CC NO. 23/2022
CNR No. DLCT11-000468-2022
ECIR HQ/14/2017**

**Directorate of Enforcement Vs. Satyendar Kumar Jain and
Ors. (Applicant Satyendar Kumar Jain)**

Date of filing the application : 21.11.2022
Date on which order reserved : 24.11.2022
Date on which order pronounced : 26.11.2022

ORDER

1. Vide this order, I shall dispose of an application filed by the applicant Satyendar Kumar Jain dated 21.11.2022, vide which he has prayed that DG, Prison and Superintendent, Tihar Jail, New Delhi be directed to provide fruits/vegetables/seeds and dry fruits/dates etc. as per his religious beliefs.
2. Notice of the application was issued to the DG, Prison and Superintendent, Tihar Jail, New Delhi, who have filed a detailed composite reply.
3. I have heard Sh.Rahul Mehra, Ld. Senior Counsel for applicant Satyendar Kumar Jain and Sh. Abhijit Shankar, Law Officer on behalf of DG, Prison and Central Tihar Jail, New Delhi.
4. It was submitted by Ld. Senior counsel for applicant Satyendar Kumar Jain that applicant/Satyendar Kumar Jain is lodged in Tihar Jail, New Delhi since 31.05.2022. It was further submitted that applicant is a follower of Jain religion and as per his

religious belief, applicant does not have cooked food, pulses, grains and milk products without going to the Jain Temple. Hence, for the past six months of his incarceration, applicant is not having cooked food as per his religious belief and is surviving on the fruits/ vegetables/ dates/ dry fruits etc.

5. It was further submitted that due to said religious fast, there is a serious risk of protein and iron deficiency. Hence, applicant was prescribed diet consisting of 50gm Almonds, 50gm mixed seeds, 2 walnuts and 2 dates per day by the medical officer Incharge of Central Jail no.7, Tihar, New Delhi on 10.10.2022. However, on 08.11.2022/09.11.2022, the Tihar Jail Administration has stopped providing the applicant with the basic food items i.e. fruits/vegetables/mixed seeds, dry fruits and dates and due to such withdrawal of basic food items, the applicant has alarmingly lost 2 kgs of weight in last one week and in total since the day of his arrest, he has lost 28 Kgs in last six months. It was further submitted that applicant is being starved by the Tihar Jail Authorities and is not being given sustenance or nutrition to even sustain his well-being.
6. It was further submitted that by his incarceration, the applicant can be deprived of his personal liberty but his right to live with dignity can not be taken away and applicant is entitled to basic food as a part of his right to life and such right is recognized even by Article 21 of the Constitution of India, 1950.
7. It was further submitted that even the Delhi Prisons Rules, 2018 (**hereinafter referred to as the “DPR 2018”**) provides that inmates/prisoners, who observe religious fast, are to be provided with extra articles of food suitable for such fast and every prisoner has a right to keep religious fast and the Jail authority

can not deny the prisoner's right to keep his/her religious fast. In this context, Ld. Senior counsel has referred to Rule 339, 341 and 1142 of DPR 2018.

8. It was further submitted that Tihar Jail Administration by stopping the basic food items, which were being given to the applicant as per his religious beliefs, has not only violated DPR 2018 but also applicant's fundamental Right to live with dignity. Accordingly, it was prayed that application of applicant be allowed and appropriate directions be issued to DG, Prison and Superintendent Tihar Jail, New Delhi for providing the applicant basic foods items such as fruits/vegetables, seeds and dry fruits/dates as per his religious belief, which were being provided for the past five-six months.
9. On the other hand, it was submitted by Law Officer, Tihar Jail administration that DPR 2018 provides for keeping the religious fast and not a fast undertaken by an individual as per his own choice/liking. It was further submitted that applicant had never made any request to keep the fast as per his religious belief to the Superintendent, Tihar Jail no.7. Therefore, question of allowing the applicant to keep the religious fast by the Prison administration does not arise. It was further submitted that applicant has chosen his own diet as per his liking instead of his regular jail meal, which is not only balanced diet but is also equipped with all nutritional values, which is a diet being provided uniformly to all the jail inmates.
10. It was further submitted that dry fruits in prison are not permitted to inmates and also could not be taken as an alternate to a regular meal. However, if the dry fruits are prescribed by the Medical officer then inmates may be permitted to have such dry

fruits for the period prescribed by the medical officer. It was further submitted that Jail Administration does not provide fruits/vegetables to any prisoner/ inmates. However, as per the DPR 2018, inmates/prisoners can purchase fruits/vegetables and other items of basic needs from the jail canteen on payment basis subject to maximum purchase worth Rs.7,000/- per month.

11.It was further submitted that the applicant has not taken any cooked food in the jail since his admission by his own choice and is only taking fruits/vegetables on payment basis from the jail canteen. In support of his contention, Ld. Law Officer, Tihar Jail had provided the billing details of the items purchased by applicant from the jail canteen from 20.08.2022 to 22.11.2022.

12.It was admitted by the Ld. Law Officer that medical officer, Tihar Central Jail no.7 had prescribed dry fruits vide his prescription dated 11.10.2022 and accordingly same was provided to the applicant. However, now the Medical officer has reviewed diet of the applicant vide his prescription dated 11.11.2022 and has stopped the dry fruits and advised the applicant to take normal food as provided by the jail and protein powder with milk twice daily. It was further submitted that applicant is refusing to take the balanced nutritious jail meal, which is provided to all jail inmates thrice a day and instead is having fruit/salad diet by purchasing the same from the jail canteen. Accordingly, a prayer was made to dismiss the application.

13.In rebuttal, it was submitted by the Ld. Senior counsel for applicant that from the billing details provided in Annexure-A filed alongwith reply of Tihar Jail Administration, it is apparent that from 20.08.2022 till 10.10.2022, there was no purchase of

fruits/vegetables by the applicant from the jail canteen, which further supports the contention of the applicant that it was the Jail administration, which was providing him the fruits/vegetables for the past six months as per his religious beliefs and the same has been arbitrarily stopped, which is detriment to the health of the applicant.

14. It was further submitted that no reason has been assigned as to why the basic food items like fruits/vegetables has been stopped by the Tihar Jail authority when the same were being provided to the applicant earlier. Accordingly, it was reiterated that appropriate directions be issued to the DG, Prison and Superintendent Tihar Jail no.7 to provide fruits/vegetables/seeds and dry fruits/dates etc as per religious belief of the applicant.
15. I have considered the rival submissions and have carefully perused the reply filed by Tihar Jail administration alongwith the various annexures.
16. The first contention of the Id. Senior counsel for applicant that applicant was being provided with fruits/vegetables/seeds/dates etc. by the Tihar Jail administration due to his religious belief for the past 5-6 months, deserves to be rejected. The reason for the same is that in para-2 of his application, applicant has himself asserted that since he was not consuming regular food due to his being on religious fast, therefore, for the past six months, he was surviving on fruits/vegetables and dry fruits, which he purchased from his own quota of ration available to all inmates. Therefore, own averments made by the applicant demolishes his case that Tihar Jail Administration was providing him fruits/vegetables as per his religious belief.

17. Secondly, even the Tihar Jail Administration in their reply have categorically denied that they were providing the applicant with fruits/vegetables and have further submitted that the same were being purchased by the applicant from the jail canteen on payment basis.
18. Thirdly, the said contention also deserves to be rejected in the light of Rule 341 of the DPR 2018, and Rule 1142 of the DPR 2018, which is reproduced herein below:-

Rule 341 of DPR 2018 provides that

" Prisoners who observe religious fasts may receive extra articles of food suitable for such fasts as per local practice (such as potatoes, fruits, etc.) or may have the whole or a part of their meal at a place and time of day, as may be allowed by orders of the government for proper observance of fasts by them."

Rule 1142 of DPR 2018 provides that

"Every prisoners should be allowed to perform his devotions in a quiet and orderly manner. Prisoners may be permitted to gather in their respective wards for performance of their religious ceremonies. The prisoners desiring to keep fast, as enjoined by their religion, shall be permitted to do so.

Provided that the Medical Officer may, if he is of the opinion that the continuance of the fast by such prisoner is likely to be injurious or dangerous to health direct its discontinuance

Provided further that the Superintendent may, if he is of the opinion that such a fast is subversive of the prison discipline, disallow such fast.

Note : The prisoners who wish to keep fast may be given meals at appropriate time as enjoined by the religious practice".

19. From Rule 341 of the DPR 2018, it is apparent that inmates, who observe religious fast may be provided extra articles of food i.e fruit/potatoes, as may be allowed by the orders of the Government. Even Rule 1142 of the DPR 2018 provides that prisoners, who are desirous of keeping fast, as enjoined by their religion,

shall be permitted to do so. The word “*Permitted*” in 1142 of the DPR 2018, pre-supposes that inmates/prisoners has to make an application before the Tihar Jail authority showing his intention to keep a religious fast and, thereafter, Tihar Jail authority on being satisfied that the religious fast is enjoined by the respective inmates/prisoner’s religion, shall permit inmates to keep fast. Therefore, from the language of Rule 1142 of DPR 2018, it is apparent that the permission has to be taken by a prisoner for keeping a religious fast and if the prisoner is permitted to keep religious fast, then only extra articles of food such as fruit/vegetables can be provided to inmates as per Rule 341 of DPR 2018.

- 20.**In the present case, neither there is any request placed on record of the applicant showing his desire to keep fast nor any order of DG, Prison or of any authority permitting the applicant to keep religious fast, as enjoined by his religion and ordering for providing fruits/vegetables to the applicant. Therefore, as per DPR 2018, there was no order to the effect of providing the applicant with fruits/vegetables, on account of his religious fast by Tihar Jail Administration.
- 21.** However, this court can not lose sight of the fact that it is an admitted position by both the parties that applicant was consuming fruits/vegetables for the past 5-6 months, as he was not having regular food. Now, the question arises as to whether the applicant was purchasing fruits/vegetables from the jail canteen as per DPR 2018 or whether he was being provided the same by the Tihar Jail staff, in violation of DPR 2018 ?
- 22.**Both the applicant and the Tihar Jail Administration have claimed that applicant was having fruits/vegetables, instead of regular food, by purchasing the same from jail canteen. However,

billing details provided in Annexure-A to the reply of the Tihar Jail Administration from 20.08.2022 till 10.10.2022 shows that no fruits and vegetables were purchased by the applicant from the jail canteen during the said period, except on 24.08.2022, when tomato/cucumber/apple were purchased. Therefore, Annexure-A establishes on record that consumption of fruits/vegetables by the applicant was not done after purchasing the same from the jail canteen. Hence, this court prima facie believes that the fruits/vegetables were being provided without there being any order of DG Prison or any authority, to the applicant in violation of the DPR 2018, by the staff of Tihar Jail no.7, where the applicant was lodged. The providing of fruits and vegetables to the applicant was in violation of Article 14 of the Constitution of India, 1950 as State is bound to treat all the prisoners equally and there can be no discrimination on the basis of caste, creed, sex, religion, status etc. Article 14 of the Constitution of India, 1950 provides for Equality before Law, which basically means that all persons should be treated equally no matter whether they are poor or rich, male or female, upper caste or lower caste. Thus, State cannot provide any special privileges to anyone in the country. I am fortified in my reasoning by the fact that DG (Prison) and around 26 officials of Tihar Jail no.7 have been transferred and Superintendent, Jail No.7 has been suspended in the month of November, 2022, as per details furnished on record in the affidavit of Enforcement Directorate dated 21.11.2022, which prima facie shows that Tihar Jail officials of jail no.7 were providing preferential treatment to the applicant by providing fruits and vegetables, being Minister of Government of Delhi, in violation of DPR 2018.

- 23.**The very fact that applicant is now purchasing fruits and vegetables from the jail canteen w.e.f. 03.11.2022 as per the bills filed on record by the Tihar Jail Administration in Annexure “A” and has filed this application after suspension/transfer of officials of Tihar Jail administration prima facie establishes on record that the incumbent Tihar Jail Officials have stopped providing preferential treatment to the applicant, which was being given earlier to the applicant, in violation of the DPR 2018.
- 24.**The contention of the Ld.Senior Counsel for the applicant that due to stoppage of fruits/vegetables/ dry fruits, the applicant has lost 2 kg of weight in one week and in total 28 Kgs of weight since the day of his incarceration, deserves to be rejected. The weight loss cannot be attributed to the Tihar Jail Administration. The reason for the same is that as per the own assertion made by the applicant, he is not consuming regular food in Tihar Jail since the day of his incarceration. A person, who does not consume regular food is bound to lose weight. Even a dietician prescribes fruits and vegetable diet when a person intends to lose weight. The applicant is also not following the advice given by the Medical Officer, Tihar Jail on 11.11.2022 to take regular meals, even though the applicant has himself asserted in para 5 of the application that as per Rule 342 of DPR 2018, he needs to be provided diet as advised by the Senior Medical Officer. Therefore, loss of weight of the applicant is on account of him not consuming regular food and Tihar Jail Administration is not responsible for the same.
- 25.**Secondly, the stoppage of dry fruits, being provided to the applicant on the advice of Medical Officer Incharge, Jail No.7, has been rightly done so and no interference is required to be

made in this regard. As per reply of Tihar Jail Administration, the dry fruits are given to a prisoner only if it is prescribed by a Medical Officer. Earlier, the Medical Officer, Jail No.7 had prescribed dry fruits to the applicant vide his prescription dated 11.10.2022. However, the Medical Officer of Tihar Jail No.7 has reviewed the health of the applicant on 11.11.2022 and has advised the stoppage of dry fruits and has further advised the applicant to take regular food available in the Tihar Jail.

26. Since the stoppage of dry fruits has been done by the Medical officer, Tihar Jail No.7, this court can not substitute the advice of the doctor by its own discretion. The medical officer is the best person, who can advise the prescribed diet to the prisoners after observing the health of the inmates/prisoners. Whatever diet /supplement has been prescribed by the Medical Officer on 11.11.2022 to the applicant, must have been done in the best interest of the health of the applicant to keep him hale and hearty in the jail. Therefore, there is no ground made out to interfere with the advice of the medical officer dated 11.11.2022 stopping the dry fruits of the applicant.

27. Before parting with this order, I would like to observe that as and when the applicant shows his desire to observe a religious fast, as enjoined by his religion, then he shall inform the jail administration about the same in writing and thereafter, the jail administration will decide the request of the applicant, keeping in view Rule 1142 of DPR 2018 and in case, the applicant is permitted to keep a religious fast, then he shall be provided food articles as allowed by the order of the Government as per Rule 341 of DPR 2018.

28. In the light of aforementioned discussion, **no ground is made out to direct DG (Prison) and Superintendent, Tihar Jail to provide fruits, vegetables and dry fruits to the applicant Satyendar Kumar Jain. Accordingly, the application is dismissed.**

**Announced in the open court
Dated:26.11.2022**

**(Vikas Dhull)
Special Judge (PC Act) (CBI)-23
(MPs/MLAs Cases) RADC
New Delhi**