

**IN THE ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

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OA/179/10

SEP ARVIND SINGH

...APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM:

**HON'BLE SH. S.S.KULSHRESTHA, MEMBER
HON'BLE SH. S.S.DHILLON, MEMBER**

ORDER

Dated : 26.03.2010

Present: Sh. Rohit Priyaranjan, Advocate with Ms. Sonali Sarin, Advocate for the applicant.

Lt Col Naveen Sharma on behalf of the respondents.

This petition has been brought for issuing appropriate directions to the General Court Martial (GCM) not to make tampering in the evidence and to conduct the trial as per procedure laid down in the rules. It has also been contended that the GCM without taking into consideration the fact that the original site plan, which was the part of investigation has already been exhibited by the prosecution, ought not to have been altered or modified. Further evidence contrary to the original site plan could not be permitted to be taken on record. It is said that the right of the accused/appellant is prejudiced because ^{of the} the manner how the proceedings are conducted by GCM. Such alternation in the site plan was also objected by the petitioner but his application was terminated against him. It is true that failure to accord fair hearing either to the accused or the prosecution violates minimum standards of due process of law. But here there is nothing on record which would show that the opportunity to cross examine the witness is not

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afforded to the petitioner on this so called alteration in the site plan. It may be mentioned that whatever the site plan was there before the GCM whether was got exhibited or subsequently some amendments were permitted by the GCM, it is the matter of trial and this Tribunal is not required to make appraisal of the evidence at this stage, which is being produced before the GCM. Whatever the ultimate result comes, the petitioner may challenge that. Further ^{in this} non furnishing of the copy of the order passed on his written objection would not anyway prejudice the right of the petitioner as the so called order has been considered by this Tribunal. As regard to the furnishing of the copy of order passed by the GCM is concerned, the same may be disposed of by the GCM as per rules.

We do not find any justified and justifiable reason to interfere in the proceedings of the GCM. Accordingly the application is dismissed.

S.S.DHILLON
(Member)

S.S. KULSHRESTHA
(Member)