

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Crl. Misc.No. M- 39085 of 2015 (O&M)
Date of decision : December 10, 2015**

Haryana Yog Sabha (Regd.)

.....Petitioner

versus

Dr. Damyanti Sharma and anr.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. N.S. Shekhawat, Advocate
for the petitioner.

Mr. Ashish Aggarwal, Sr. Advocate with
Mr. Vipul Aggarwal, Advocate
for the respondents

RITU BAHRI , J. (Oral)

Petitioner-Haryana Yog Sabha has filed the instant petition under Section 482 Cr.P.C for recalling order dated 02.06.2011 whereby this Court had quashed the complaint on a petition i.e. CRM-M-21377 of 2010 filed by the respondents before this Court.

The facts in brief are that a complaint was filed by the petitioner-Sabha against the respondents for embezzling the grant money of Rs.11,000/- and Rs.21,000/- by opening a Bank Account in the name of Karnal Branch namely Divya Yog Mandir, which was given

by the then Industries Minister to the Karnal Branch of the petitioner-Sabha.

This Court quashed the complaint filed against the respondents by the petitioner-Sabha by taking into consideration the report dated 12.12.2003 (Annexure P10) which was submitted by the Deputy Commissioner, Karnal. An enquiry was conducted in the month of May with regard to amount of Rs.11,000/- and Rs.21,000/- given to the above Institution by the then Industries Minister, Shri Shish Pal Mehta from his discretionary quota. The Institution has only purchased necessary items/equipment from the amount of grant under due receipt in accordance with Rules from authorised dealers and the photocopies of the concerned bills etc. were annexed. The Institution has spent a sum of Rs.36,000/- approximately against an amount of Rs.32,000/-. As per the Memorandum of Association sanctioned by the Registrar Societies that Dr. Damyanti Sharma is the president of the above Institution. She has withdrawn the amount from the Bank as President of the Institution and no misappropriation of the fund has been proved. Since 1998 till date of this report i.e 02.12.2003, the Institution has purchased different equipments, worth Rs. 36,728/-. No unnecessary articles have been purchased. The purchase have been made after the resolution has been passed by the members of the

Executive Sabha. An attempt was being by Prof M. Lal to treat the property of the Institution as his personal property and he wants to use the Institution for earning the money as a business. There is no irregularity in withdrawing the amount from the bank and purchase of articles etc from the Institution.

Learned counsel for the petitioner submits that the petitioner is seeking recalling of the judgment dated 02.06.2011 on the ground that report dated 02.12.2003 (Annexure P6), which was made basis for quashing of complaint by the respondents, does not exist at all in the official file of the office of the Deputy Commissioner. Thus, no enquiry with regard to the grant sanctioned by State of Haryana was marked by Deputy Commissioner, Karnal to DSWO, Karnal. To give force to its contention, reference has been made to the information sought under the RTI Act by the petitioner (P-8 to P-13) whereby it has been stated that no enquiry report exists in the file of the Deputy Commissioner, Karnal.

On the other hand, learned senior counsel appearing for the respondents has informed the Court that even SLP filed against the judgment i.e CRM-M-21377 has been dismissed by Hon'ble the Supreme Court on 25.02.2013 and a liberty has been granted to the petitioner to file a civil suit for appropriate relief. He has further

placed on record the enquiry report (Ex R3) which shows that an enquiry was conducted by DSWO. Further, the record of Divya Yog Mandir, Sector 7, Karnal was inspected at the spot and statements of Executive Members of Sabha were recorded and it was found that in the year 1998-99, the grant of Rs.11,000/- and Rs.21,000/- respectively were given by the Industries Minister from his discretionary quota for purchasing the equipments durries and other items. As per the Memorandum of Association sanctioned by the Registrar Societies that Dr. Damyanti Sharma is the president of the above Institution. She has withdrawn the amount from the Bank as President of the Institution and no misappropriation of the fund has been proved. Since 1998 till date of this report i.e 02.12.2003, the Institution has purchased different equipments, worth Rs. 36,728/-. Photocopy of bill are also enclosed as Flag 'A'. No unnecessary articles have been purchased. The purchase have been made after the resolution has been passed by the members of the Executive Sabha (Flag 'B'). A vernacular of this report has also been annexed.

Heard learned counsel for the parties at length.

The information which has been received by the petitioner under the RTI Act, is with regard to pendency of any enquiry against Dr. Damyanti Sharma. The enquiry was to be conducted with regard to

misappropriation of the fund, accepted by respondent No. 1 and there was no personal enquiry pending against respondent No. 1. Hence the office of Deputy Commissioner, Karnal replied that there was no enquiry pending against respondent No. 1. This fact is clear from the certified copies placed on record by learned counsel for the respondents i.e Annexure R-1 to R-4.

From the certified copy of order (R-3), it is clear that the Deputy Commissioner Karnal has sent a letter to Dr. Yogacharya Damyanti, Divya Yog Mandi, Sector 7, Karnal regarding the amount of the grant for the year 1998-99 of Rs.11,000/- and for the year 1999-2000 for Rs.21,000/- given to Divya Yog Mandir, Sector 7, Karnal and with regard to the aforesaid subject, report of District Social Welfare Officer, Karnal has been received, who gave his report to the Deputy Commissioner Karnal by stating that the record of Divya Yog Mandir, Sector 7, Karnal was inspected at the spot and statements of Executive Members of Sabha were recorded and it was found that in the year 1998-99, the grant of Rs.11,000/- and Rs.21,000/- respectively were given by the Industries Minister from his discretionary quota for purchasing the equipments durries and other items. As per the Memorandum of Association sanctioned by the Registrar Societies, Dr. Damyanti Sharma is the president of the above Institution. She has

withdrawn the amount from the Bank as President of the Institution and no misappropriation of the fund has been proved. Since 1998 till date of this report i.e 02.12.2003, the Institution has purchased different equipments, worth Rs. 36,728/-. No unnecessary articles have been purchased. The purchase have been made after the resolution has been passed by the members of the Executive Sabha.

In view of the above factual position, no ground is made out for recalling order dated 02.06.2011 passed by this Court in CRM-M- 21377 of 2010 quashing the complaint against the respondents.

The petition stands dismissed accordingly.

(RITU BAHRI)
JUDGE

10.12.2015.

G Arora