

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH****CRWP-832-2015
Date of decision:21.10.2015**

Vakil Raj

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Arjun Sheoran, Advocate for the petitioner.**RAMESHWAR SINGH MALIK, J. (Oral)**

Petitioner, by way of instant criminal writ petition under Articles 226/227 of the Constitution of India, seeks issuance of an appropriate writ or order, directing the respondents to shift the petitioner back to District Jail, Karnal from District Jail, Sonapat and also for quashing of the impugned transfer order dated 12.3.2015 (Annexure P-12), alleging the said order to be an arbitrary order.

Learned counsel for the petitioner submits that the impugned order is an arbitrary order, on the face of it. He further submits that petitioner is RTI and PIL activist. Petitioner was being harassed for none of his fault. He also submits that if at all, the petitioner was to be transferred from District Jail, Karnal, he could have been transferred to the District Jail, Jind, which would have been close to his native place. However, since the respondent authorities proceeded on wholly misconceived approach, while passing the impugned order, the same was not sustainable in law. He prays for setting aside the impugned order, by allowing the present petition.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the peculiar facts and circumstances of the case, instant one has not been found to be a fit case, warranting interference at the hands of this Court, while exercising its extraordinary writ jurisdiction under Articles 226/227 of the Constitution of India. To say so, reasons are more than one, which are being recorded, hereinafter.

A bare reading of the numerous orders available in the case file would show that the respondent authorities have not acted in arbitrary manner, as alleged by the petitioner. In fact, since the petitioner himself was responsible in this regard whose serious misconduct, has forced the respondent authorities to pass the impugned order, it cannot be said to be a punishment order under any circumstances, as wrongly alleged by the petitioner. Having said that, this Court feels no hesitation to conclude that the respondent authorities neither exceeded their jurisdiction nor committed any error of law, while passing the impugned order and the same deserves to be upheld.

It is a matter of record that the impugned order is an administrative order. It is also not in dispute that petitioner was convicted and sentenced to undergo life imprisonment in case FIR No.51 dated 11.4.2002 under Sections 302, 148, 149 IPC registered at Police Station Alewa, District Jind vide judgment of conviction and order of sentence of even date, i.e. 1.3.2005. Petitioner was again convicted and sentenced to undergo life imprisonment in case FIR No.84 dated 25.7.2003 under

Sections 302, 307 and 34 IPC registered at Police Station Alewa, District Jind vide judgment of conviction and order of sentence of even date, i.e. 24.9.2005 and he is undergoing life imprisonment.

Earlier the petitioner was lodged in District Jail, Jind. However, since the said district jail was over crowded, petitioner was shifted to District Jail, Karnal. It seems that the petitioner was himself a trouble shooter. Because of his misconduct in the jail, petitioner was awarded punishment which was judiciously appraised by the learned District & Sessions Judge, Karnal and was found in order. Under these circumstances, it can be safely concluded that the Superintendent, District Jail, Karnal was factually correct and legally justified in seeking transfer of the petitioner from District Jail, Karnal to District Jail, Sonapat.

The reasons recorded by Superintendent, District Jail, Karnal, in his communication dated 10.3.2015 (Annexure P-11) written to the competent authority, i.e. Director General of Prisons, Haryana, seeking transfer of the petitioner from District Jail, Karnal, to any other jail, which deserve to be referred here, read as under:-

“The above mentioned convict was assigned the duty of CNW in the year 2009. This CNW was torturing fellow prisoners namely Yasin and Imran who are also performing the duty of CNW taunting on their religious activities and calling them Pakistani and on 07.09.2014, he spoiled the peaceful atmosphere of the jail picking up a quarrel with them, using filthy language had beaten them. To protect themselves the said fellow prisoners have also spoiled the peace of the jail premises. This convict was awarded punishment of forfeiture of ten days earned remission for this offence. The punishment was judicially appraised by the Ld.District and Sessions Judge, Karnal. He is also instigating other prisoners to level false

allegations against the Jail Administration.”

After going through the record and satisfying himself that it was just and expedient to accord sanction to the transfer of petitioner from District Jail, Karnal, to District Jail, Sonapat, Director General of Prisons, Haryana, granted the said sanction on administrative grounds, as recorded in the impugned order dated 12.3.2015 (Annexure P-12). In this view of the matter, it is unhesitatingly held that since the impugned order is an administrative order and has not been found to be suffering from any vice of arbitrariness, the same deserves to be upheld, for this reason as well.

Another argument, which was raised by the learned counsel for the petitioner about the alleged illegal orders passed by the Lokayukta, Haryana, allegedly beyond his jurisdiction, is only to be noted to be rejected, having been found wholly misplaced. In fact, none of the orders passed by the Lokayukta, Haryana has been challenged, as such, by the petitioner in the instant writ petition and rightly so, because the Lokayukta, Haryana has not been found to have exceeded his jurisdiction in any of the orders passed. Had it been so, petitioner would have certainly sought a writ of certiorari against such orders passed by the Lokayukta, Haryana. As no order passed by the Lokayukta, Haryana is under challenge before this Court, no such order is liable to be set aside.

During the course of hearing, when a pointed question was put to the learned counsel for the petitioner, as to whether petitioner was alleging any mala fide against any of the respondent authorities, he had no answer and rightly so, it being a matter of record. Once the petitioner has not levelled any mala fide against any of the respondent authorities and the impugned order, which is an administrative order, has not been found

suffering from any patent illegality or jurisdictional error, no interference is warranted, at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the instant criminal writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out

Resultantly, with the above-said observations made, the present criminal writ petition stands dismissed, however, with no order as to costs.

21.10.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE