

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

CWP no. 18039 of 2015(O&M)

Date of Decision : 31.08.2015

Bhupinder Singh

....Petitioner

Versus

Union Territory, Chandigarh and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present : Mr.D.D.Sharma , Advocate for the petitioner

MAHESH GROVER, J.

CM no. 11321 of 2015

Allowed as prayed for.

CM no. 11373 of 2015

Allowed. Main case is preponed from 4.9.2015 to today and the same is taken on Board.

Main case

The petitioner is in a writ petition questioning the order of the police complaint authority by which departmental action was recommended against him. For the purposes of reference the relevant portion of the observations of the police complaint authority are extracted herebelow:-

“ As regards the respondent no.4, we are horrified to

learn that even after a hiatus of two years, the investigation in this

case is not complete. We were not shown any stay order of a competent Court stopping the investigation. We urge IGP to order its time bound completion.

On the basis of above discussion, we order befitting departmental action against the respondent no.3, Insp. Bhupinder Singh. As far as the Respondent No. 2 is concerned, we leave it to the IGP to specify suitable quantum of punishment. Of what we feel turns out to be correct and there is no stay order of a competent Court against the investigation then the I.O of the case FIR/respondent no.4 may be proceeded for major penalties for delaying the same.

Sd/-
(Chairman)

Sd/-
(Member)

Learned counsel for the petitioner contends that he was not the investigating officer and therefore cannot be burdened with consequences of a departmental action. It is his specific case that the investigation was never entrusted to him.

On hearing learned counsel for the petitioner, I am of the view that this is something which the petitioner should explain to the authorities who have mandated a departmental action against him or to the one who may be appointed to look into the lapses of the petitioner pursuant to the mandate. It is for him to explain the circumstances to the competent authority that he, not being the investigating officer could not be burdened with any consequences of a stalled

investigation which forms the basis of the observations of the police complaint authority.

Learned counsel for the petitioner contends that the process for initiating an inquiry has already been started.

If that be so then evidently the respondents would be under an obligation to issue show cause notice to the petitioner in which eventuality the petitioner would obviously have the liberty to respond to it by putting forward the factual matrix in his defence. The respondents in turn will look into this aspect to take an appropriate decision thereon. If the petitioner produces sufficient material to indicate that he was never entrusted with the investigation evidently the order of the police complaint authority which proceeds on this presumption would not be considered against the petitioner. At this stage of the proceedings, when no action has been taken against the petitioner and the matter is yet to be looked into, I am of the view that petition is without any substance and is hereby disposed of, leaving the petitioner to his remedies in law.

August 31, 2015
rekha

(Mahesh Grover)
Judge