

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 22616 of 2015
Date of Decision: October 20, 2015

Balvir Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. Mohd. Salim, Advocate,
for the petitioner.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondents no.2 and 4 not to harass/humiliate the petitioner and not to interfere in the peaceful possession of piggery farm as he has no other source of income.

If anybody is interfering in the business of piggery of the petitioner, then only remedy available to the petitioner is by way of filing suit for permanent injunction / mandatory injunction.

Learned counsel for the petitioner has shown the judgment passed by this Court in **C.W.P. No. 11614 of 2011 titled as Paramjit**

Singh vs. State of Punjab, decided on 08.09.2011, wherein direction has been issued to decide the representation. Said judgment cannot be taken into consideration. Once specific remedy is available to the petitioner, then no direction is required to be issued to decide the representation. It appears that the petitioner has approached this Court after filing the representation just to put pressure upon the parties and to obtain some order in his favour. Hon'ble Supreme Court in **A.P.S.R.T.C. and others vs. G. Srinivas Reddy and others, (2006) 3 Supreme Court Cases 674** has deprecated the practice of disposing of writ petitions by the High Court merely with a direction to the authorities to consider the matter without examining the issue raised in the writ petition. The relevant paragraphs of said judgment are extracted hereunder:-

“18. We may also note that sometimes the High Courts dispose of matter merely with a direction to the authority to 'consider' the matter without examining the issue raised even though the facts necessary to decide the correctness of the order are available. Neither pressure of work nor the complexity of the issue can be a reason for the court to avoid deciding the issue which requires to be decided, and disposing of the matter with a direction to 'consider' the matter afresh. Be that as it may.

19. There are also several instances where unscrupulous petitioners with the connivance of 'pliable' authorities have misused the direction 'to consider' issued by court. We may

illustrate by an example. A claim, which is stale, time-barred or untenable, is put forth in the form of a representation. On the ground that the authority has not disposed of the representation within a reasonable time, the person making the representation approaches the High Court with an innocuous prayer to direct the authority to 'consider' and dispose of the representation. When the court disposes of the petition with a direction to 'consider', the authority grants the relief, taking shelter under the order of the court directing him to 'consider' the grant of relief. Instances are also not wanting where authorities, unfamiliar with the process and practice relating to writ proceedings and the nuances of judicial review, have interpreted or understood the order 'to consider' as directing grant of relief sought in the representation and consequently granting reliefs which otherwise could not have been granted. Thus, action of the authorities granting undeserving relief, in pursuance of orders to 'consider', may be on account of ignorance, or on account of bona fide belief that they should grant relief in view of court's direction to 'consider' the claim, or on account of collusion/connivance between the person making the representation and the authority deciding it. Representations of daily wagers seeking regularization/absorption into regular service is a species of cases, where there has been a large scale misuse of the orders 'to consider'."

The petitioner has efficacious remedy before the Civil Court

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as it is to be proved by leading evidence that petitioner has allegedly been harassed by the respondents.

In view of above, instant writ petition is dismissed.

October 20, 2015
vkd

[Paramjeet Singh]
Judge