

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 25196 of 2015

Date of Decision: December 03, 2015

Rajinder Singh Benipal

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. Ferry Sofat, 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 respondent no.2 or any other independent agency to thoroughly investigate the scam of Public Works Department (Buildings & Roads), Sirhind Division, in a fair and proper manner.

Instant writ petition appears to be a public interest litigation because petitioner is alleging a scam in the Public Works Department (Buildings & Roads), Sirhind Division. Otherwise also, there is no material placed before this Court nor any document has been annexed with this writ petition. Perusal of the paper book indicates that petitioner

earlier approached this Court by way of C.W.P. No. 4425 of 2014, which

was disposed of by a Division Bench of this Court vide order dated 22.04.2014 (Annexure P/2). Otherwise also, on the basis of mere representation, direction cannot be issued. Some time, unscrupulous elements take advantage. 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'."

In view of above, instant writ petition is dismissed. However, petitioner will be at liberty to file a fresh petition before the appropriate Bench in accordance with law after annexing the relevant documents.

December 03, 2015
vkd

[Paramjeet Singh]
Judge