

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

**CWP No.9152 of 2012 (O&M)
Date of decision: 24.04.2015**

Om Parkash

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. R.N.Lohan, Advocate
for the petitioner.

Mr. Hitesh Pandit, Additional Advocate General, Haryana

AMIT RAWAL J.

Challenge in the present writ petition is to the order dated 05.07.2011 and 02.09.2011, Annexure P-2 and Annexure P-4 respectively, passed by respondents No.4 and 3, whereby, the adverse entry in the ACR for the period 25.4.2006 to 3.09.2006 and 30.10.2006 to 16.01.2007 have been conveyed.

Mr. R.N.Lohan, learned counsel appearing on behalf of the petitioner contends that the Annexures P-2 and P-4 have been served on the petitioner that his integrity has been found doubtful.

The impugned order reads thus:-

“OFFICE OF THE SUPERINTENDENT OF POLICE JIND

No.472/ST

dated 5.7.2011

Subject: Conveying of adverse remarks.

On perusal of your ACR file it reveals that in your annual confidential report for the period from 25.04.2006 to 3.9.2006 and 30.10.2006 to 16.1.2007, you have been reported upon adversely as under:-

1. Integrity: Doubtful
2. Reliability: Unreliable
3. General Remarks: Needs close supervision

You are hereby advised/warned to remove the above defects.

Sd/-
Superintendent of Police,
Jind.

HC Om Parkash (525/FIB)
(425/Jind) now 243/Jind”

He further submitted that primarily ACR has been conveyed on the registration of FIR No.41 dated 01.08.2006 under Sections 7/13,49 and 88 of Prevention of Corruption Act and vide judgment dated 20.02.2008, the petitioner has been honourably acquitted by the Special Judge, Fatehabad, under Prevention of Corruption Act. Copy of the same has been annexed as Annexure P-1. He submitted that the representation Annexure P-3 submitted by the petitioner on 21.07.2011 after acquittal has erroneously, illegally, perversely been rejected vide order dated 02.09.2011, Annexure P-4. He further submitted that the said order is totally without any

reasons, much less, cogent reasons as once the petitioner has already been acquitted, the basis of causing adverse entry of the registration of FIR, is liable to be expunged. In support of his submission, he relied upon the instructions dated 14.12.1951, whereby, it has been stated that in case, any adverse remarks have been incorporated in the ACR, opinion shall generally be fortified by the reasons, which may be in the possession of the reporting officer.

The instructions, *ibid*, are reads thus:-

“(b) An officer should not at any time be kept ignorant of the Reporting Officer opinion where his services is not considered satisfactory, criticism should be communicated promptly and should indicate in suitable language the nature of defects in question.

(b) The reporting officer should specifically state whether the defects reported have already been brought in any other communication to the notice of officer concerned.

Similarly in para no.(ii) of letter No.C.S.Pb.No.2679-GI-59/8249 dated 15.7.1959 it has been held that the reporting officer while mentioning any defects in the report should as far as possible also give indication of what efforts have been made by way of guidance, admonition etc. to get the defects removed and with results.

In para No.4 of consolidation instructions as issued by the Punjab Govt. vide No.8588/GC-56/11533/GI(s)/56/73580 dated 4.10.56 and Haryana Government letter No.61/20/85/S(I) dated 12.12.1985 it has been held that 'Report Regarding Integrity' as special mention should invariably be made regarding the integrity of the officer in which the government attach the greatest importance. It should be clearly stated if the officer is suspected or is believed to be corrupt and this opinion should generally be fortified by the reasons, which may be in the possession of the reporting officer. Any ill considered remarks in this respect may do a lot of mischief and harm. On the other hand, reporting officer must be quite honest and frank."

Mr. Hitesh Pandit, learned Additional Advocate General, Haryana, submits that the Deputy Director P.T.C, Area Suneria, Rohtak, the Reporting Officer, vide his memo dated 27.08.2011 (Annexure P-6) intimated the grounds of recording the ACR and accordingly, the ACR was recorded adversely, for, petitioner was arrested in the aforementioned FIR.

I have heard learned counsel for the parties and appraised the paper book.

The stand taken by the State clearly indicates that the adverse entry in the ACR of the officer/petitioner has been recorded

on account of the petitioner having been arrested in the aforementioned FIR. Since the petitioner had made a representation dated 21.07.2011 by attaching the copy of judgment dated 20.02.2008 (Annexure P-1) despite that respondents-authorities vide impugned order dated 02.09.2011 Annexure P-4, has not assigned any reasons, much less, cogent reasons in rejecting the representation. Thus, order per se is fallacious, much less, capricious.

The authority has also not recorded reasons as per the instructions and since the petitioner has been honorably acquitted the adverse entry for the period 25.4.2006 to 3.09.2006 and 30.10.2006 to 16.01.2007 are no longer required to be maintained and thus, liable to be expunged. Accordingly, the adverse entry for the aforementioned period are hereby expunged. Accordingly, the orders dated 05.07.2001 and 2.09.2011, Annexure P-2 and Annexure P-4, are hereby, quashed.

The writ petition is, thus, allowed.

(AMIT RAWAL)
JUDGE

April 24, 2015
savita