

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

MUKESH KUMAR SALUJA
2015.02.10 10:11
I attest to the accuracy and
authenticity of this document

**CWP No.4114 of 2013
Date of decision:05.02.2015**

Nirmala Devi

...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.Shalender Mohan, Advocate for the petitioner.

Mr.A.S.Chaudhary, Addl.A.G., Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

Present writ petition is directed against the order dated 30.10.2012 (Annexure P-2), whereby pay of the petitioner was re-fixed and recovery was ordered, without issuing any show-cause notice to the petitioner.

Notice of motion was issued and pursuant thereto, written statement has been filed on behalf of the respondents.

Heard learned counsel for the parties.

Learned counsel for the parties are *ad idem* that before passing the impugned order, no show-cause notice was issued to the petitioner nor she was granted any opportunity of being heard. It is also not in dispute that the impugned order was going to visit the petitioner with civil consequences. Under these undisputed facts on record, it has been found that the impugned order has been passed by the respondent authorities, in glaring violation of the basic principles of natural justice and the same cannot be sustained.

It was well known to the respondent authorities that the order proposed to be passed by them was detriment to the interest of the petitioner. In such a situation, respondent No.4 was under legal obligation to issue show-cause notice to the petitioner. However, admittedly, it has not been done so in the present case. Since respondent No.4 has glaringly violated the golden rule of *audi alteram partem*, before passing the impugned order, the same cannot be sustained for this reason also.

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 since the impugned order has been found to be patently illegal which cannot be sustained, the same is hereby set aside. However, liberty is granted to the respondent authorities to pass a fresh order, strictly in accordance with law.

Resultantly, with the above-said observations made and directions issued, the present writ petition stands allowed, however with no order as to costs.

05.02.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE