

235

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

**C.W.P No.2804 of 2015
Date of decision : 08.09.2015.**

Daljit Singh

..... Petitioner

VERSUS

Punjab State Civil Supplies Corporation Ltd. & Anr.

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Vikram Brar, Advocate
for the respondents.

AMOL RATTAN SINGH, J. (Oral)

The issue in the present writ petition is, as to whether the departmental proceedings, on serious charges of a large embezzlement to the tune of ₹ 2.33 crores, should be stayed during the pendency of criminal proceedings, where it is undisputed on behalf of the respondents also, that almost identical charges have been framed, obviously arising out of the same cause of action.

Learned counsel for the petitioner submits that the petitioner would be forced to disclose his defence in the departmental proceedings, which can prejudice his defence in the criminal proceedings.

Learned counsel for the respondents has opposed the prayer, on the ground that the criminal proceedings and departmental proceedings necessarily have to be on the same footing as they arise out of the same cause of action and in view of the fact that it is settled law that criminal and departmental proceedings can continue simultaneously, the petitioner does not deserve the relief claimed.

In fact, both learned counsel have basically relied upon the same judgment in Capt. M Paul Anthony vs. Bharat Gold Mines Ltd. (AIR 1999 SC 1416), to make their respective submissions, with counsel for the petitioner pointing to the second clause of the conclusion arrived at by the Lordships [Para-21 of the judgment], which reads as follows:-

"If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case."

Obviously, learned counsel for the respondents has relied upon the first clause of the conclusion, which reads as follows:-

"Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately."

Mr. Brar further submits that the petitioner would not be prejudiced in any manner with the continuation of departmental proceedings, in view of the fact that he has already disclosed a substantial part of his defence in reply to the charge-sheet issued to him in the disciplinary proceedings.

Having considered submissions made by both the counsel, in my opinion the petitioner may possibly be prejudiced if he is forced to disclose his defence in the departmental proceedings, before evidence is led in the criminal proceedings.

As regards Mr. Brar's contention with regard to the petitioner already having disclosed a substantial part of his evidence in reply to the charge-sheet issued to him in the disciplinary proceedings, firstly, the said reply is not on record, but even if it is summoned, it cannot be conclusively held by this Court as to whether the reply given to the charge-sheet actually constitutes the complete defence which the petitioner would like to take before the trial court, or not.

Hence, this writ petition is allowed.

The departmental proceedings against the petitioner are ordered to be stayed during the pendency of the trial stated

to be ongoing, pursuant to registration of FIR No. 6 dated 22.05.2013 at Police Station, Vigilance Bureau, Ferozpur. However, if there is any delay caused in conclusion of evidence, by any act of the petitioner, the respondents would be at liberty to move an application for recalling of the present order.

Though this is a writ petition with regard to staying disciplinary proceedings, however, since disciplinary proceedings on a very serious charge have been ordered to be stayed by this Court, during the pendency of the criminal trial being conducted against the petitioner, the trial court is directed to ensure that there is no unnecessary delay in concluding the matter before it and all steps as are necessary to secure the presence of witnesses, whether for the prosecution or the defence, are so taken.

Since some of the prosecution witnesses before the trial court are stated to be police officials of the State Vigilance Bureau, the Director General, State Vigilance Bureau, Punjab, is directed to ensure that the police witnesses appear in Court, to depose as such witnesses, as and when summoned by the trial court. A copy of this order be conveyed to the Director General, State Vigilance Bureau, by the registry.

A copy of this order be also sent to the Ld. Sessions Judge, Moga, for onward transmission and compliance by the Special Judge, conducting the trial against the petitioner.

September 08, 2015
Ramandeep Singh

(AMOL RATTAN SINGH)
JUDGE