

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.590 of 2015

Date of Decision.14.01.2015

Santosh Devi

.....Petitioner

Versus

State of Haryana and others

.....Respondents

Present: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Sumeet Goel, Advocate and
Mr. Samir Rathaur, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

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K. KANNAN J. (ORAL

1. The petitioner has a grievance that the Lokayukta has simply acted on an enquiry conducted by the Registrar and has ordered recovery of ₹ 1,62,565/- without involving the petitioner in any way. According to the learned Senior Counsel, the enquiry contemplated under Sections 11 and 14 would refer only to an authority granted to the Registrar to collect the preliminary enquiry and it may not conclude an issue of whether there exists actually a liability or not. The nature of report after an enquiry which the Lokayukta may issue shall be to make appropriate recommendations and suggestions to the competent authority and intimate the complainant and this cannot go to the extent of directing a recovery of the amount itself.

2. I would qualify the observations made by the learned Senior Counsel only to the effect that there can be no direction for recovery of

the amount straightway without involving the petitioner in any form of enquiry and calling upon him to make an assessment of whether any amount is due from the petitioner in the manner complained of by the complainant. The impugned order ought not to be taken as empowering the Deputy Commissioner to recover ₹ 1,62,565/- without giving an opportunity to the petitioner to show that the assessment is wrong and no amount is liable to be paid at all. I thought for a while whether it will be appropriate to issue notice and stay proceedings all the way but it will be wholly inexpedient in a situation where the Act itself does not contemplate determination of any liability. Lokayukta is an important institution that will provide for an enquiry and investigation into the allegation of misconduct of a public servant and direct appropriate authorities to take subsequent action on the basis of such enquiry.

3. The learned Senior Counsel would request that the Deputy Commissioner may be directed to take such action uninfluenced by the decision of the Lokayukta. It will make the provisions of the Act itself meaningless if a report of the Lokayukta is to be merely dumped or treated as worthless. The Act is meant to provide for enquiry and investigation into the allegations and grievances against public servant and for matters connected therewith and it is the duty of the Lokayukta to enquire and obtain credible information of whether a complaint against a public servant is true or not. If such an information is collected, it could only be a starting point for further action and the Act itself does not contemplate the Lokayukta to pass decrees in the manner that the Civil Court can do or punish a person that a Criminal Court can do, otherwise than for false and malicious complaints. The Deputy

Commissioner will, therefore, proceed with further action pursuant to the decision given by the Lokayukta on 12.08.2014 but the order of the Lokayukta ought not to be understood as empowering the Deputy Commissioner to recover the money without actually making an assessment of whether any amount is due from the petitioner by joining her in an appropriate enquiry and eliciting her own response. Needless to state that any form of enquiry ought to conform to law and no steps will be taken for recovery without actually assessing liability in any manner provided under any of the provisions of law. The petitioner is also at liberty to require the Deputy Commissioner issue copies of such incriminating documents put against her which are taken as the basis for fixing liability. If such request is made, the Deputy Commissioner may consider the same and furnish the copies before as a measure of following the rules of natural justice.

4. With these observations the writ petition is disposed of.

(K. KANNAN)
JUDGE

January 14, 2015
Pankaj*