IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10218 of 1997
Date of decision: 03.12.2016

Surjit Singh Gill and another

... Petitioners

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: None for the petitioners.

Mr. Yatinder Sharma, Addl. AG, Punjab.

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RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the communication dated 02.06.1997 (Annexure P-2), whereby an amount of Rs.12,118/- and Rs.245/- was sought to be recovered on account of alleged inappropriate use of vehicles of the sugar mills in the capacity of Chairman and vice-Chairman, petitioners have approached this Court, by way of present writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, for quashing the impugned order.

Notice of motion was issued. Respondent No.3 filed its written statement. Thereafter, the writ petition was admitted for regular hearing vide order dated 20.10.1997 passed by a Division Bench of this Court and interim order was passed. That is how, this Court is seized of the matter.

Heard learned counsel for the State.

It is a matter of record that the petitioners were elected as

Chairman and vice-Chairman of the respondent-Sugar Mills. It is also not in dispute that while working in the capacity as Chairman and vice-Chairman, petitioners were entitled to use the vehicles of the respondent-Sugar Mills. There was some audit inspection and the allegation against the petitioners was based only on an audit note. The offending part of the audit note, at page 28 of the paper book, reads as under: -

> *"It has come to the notice while checking the log-books of the vehicles of the Mill that on some dates the vehicles have been used by Chairman (Sh. Surjit Singh) and vice Chairman (Sh. Jarnail Singh). The purpose of the use of vehicles is described as visiting the other mills, to meet the Minister Sahib, Mill Work, Meeting and to drop Chairman and vice Chairman at their residences/Villages...."*

A bare reading of the abovesaid audit objection would make out no case against the petitioners, because the use of vehicles for the purpose of visiting other mills, to meet the Minister for the work of mills, to attend the meeting and to drop the Chairman and vice-Chairman at their residences cannot be said to be a misuse of vehicles by any stretch of imagination. In fact, after going through the record of the case, this Court is of the considered opinion that issuing of impugned communication dated 02.06.1997 (Annexure P-2) against the petitioners, was a motivated one, which was issued for extraneous considerations.

The impugned communication (Annexure P-2) was issued in a most arbitrary manner. No show cause notice was issued to the petitioners, thereby condemning them unheard. Thus, basic principles of natural justice were also glaringly violated, which would render the impugned communication (Annexure P-2) totally unsustainable in law. It was least expected from the respondent authorities to issue at least a show cause notice and granting of an opportunity of being heard to the petitioners, before leveling the allegation of misuse of vehicles against them.

As noticed hereinabove, the allegation was not only factually incorrect and legally misconceived, it was contrary to the record and also levelled only because of extraneous considerations. Having said that, this Court feels no hesitation to conclude that the impugned communication (Annexure P-2) cannot be sustained under these circumstances.

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 dated 02.06.1997 (Annexure P-2) has been found suffering from vice of arbitrariness, it cannot be sustained and the same is hereby set aside. The writ petition deserves to be accepted.

Resultantly, with the abovesaid observations made, instant writ petition stands allowed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

03.12.2016
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No