

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

**Criminal Misc. No. M-6858 of 2012
Date of Decision:-21.07.2016**

Vijay Sharma

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Ms. Bindu Goel, Advocate
for the petitioner.

Mr. Manish Bansal, Deputy A.G., Haryana.

Mr. S.K. Yadav, Advocate
for respondent No.9.

HARI PAL VERMA J.

Petitioner has filed the present petition under Section 482 Cr.P.C. seeking direction to the CBI or some other independent agency so as to investigate the matter regarding withdrawal of old age pension of old and poor pensioners by forging their thumb impressions by respondent No.9-Shri Krishan i.e. Ex-Sarpanch of Village Kakrala, Tehsil and District Mahendergarh.

It is alleged that respondent No.9 in connivance with Smt. Narmada Devi-respondent No.10, had withdrawn old age pension of other pensioners by forging their thumb impressions. It is the case of the petitioner that he is a resident of Village Kakrala (Kanina), District Mahendergarh. Respondent No.9-Shri Krishan, Ex-Sarpanch has been grabbing old age pension of old poor and helpless persons of the village since the year 2005 by forging thumb impressions of the pensioners, who have either left their village in the year 2005 or did not receive their pension because of their absence. The pension of these persons was wrongly received by respondent No.9 by forging their thumb impressions. Even the persons who died long back, information to that effect was never given to the authorities regarding their death. Their pension was also received by forging thumb impressions. The petitioner is brother-in-law of late Smt. Banarsi Devi, whose old age pension was also withdrawn by respondent No.9 in her absence by forging her thumb impressions. The petitioner noticed this forgery when he found that old age pension of Smt. Banarsi Devi widow of late Shri Ram Kumar and sister-in-law (bhabhi) of the petitioner was also withdrawn in her absence. Banarsi Devi was a widow and after death of her husband, she left her matrimonial house of village Kakrala and shifted to her maternal home at village Naangal Khodia, District Alwar, Rajasthan in the year 2005. She had never come to take her pension in Village Kakrala. She died in July 2008. But despite she left the village and on her death, her pension was regularly being withdrawn by respondent No.9 by forging her thumb impressions. The petitioner has

sought information under the Right to Information Act and the District Social Welfare Officer vide his letter dated 20.8.2009 has supplied the requisite information regarding Banarsi Devi widow of Ram Kumar and of Narmada widow of Chhajju Ram.

For illegal withdrawal of old age pension in the absence of pensioners, the petitioner has filed a complaint with affidavit dated 3.9.2009 to the SHO concerned against respondent No.9 with an allegation that the said Sarpanch has been misappropriating the Government money and is wrongly withdrawing the old age pension meant for old age and poor people by putting their bogus thumb impressions. Though in the initial investigation conducted by the police, no commission of offence was found and no action thereon was taken. But again an appropriate investigation was ordered in the case and the SHO concerned was also directed to take thumb impressions of Narmada Devi-respondent No.10 and the same was sent to F.S.L. Madhuban for its comparison to the forged thumb impressions made on APR's so as to ascertain the forged thumb impressions. The petitioner submitted a representation dated 21.6.2010 apprising respondent No.3 that despite making numerous complaints and requests to the SHO concerned, he is not taking any action in the case. The SHO is openly violating office order and is rather refusing to take thumb impression of respondent No.10 and to sent it to the FSL Madhuban for its comparison on the ground that respondent No.10-Narmada Devi has refused to give her thumb impressions. The conduct of the SHO shows that he has connived with respondents No.9 and 10 and in this manner he is not

performing the statutory duty assigned to him. Instead of performing his duties he is rather helping respondents No.9 and 10 to embezzle the State funds.

Reply on behalf of respondents No.1 to 5 has been filed by Shri Virender Singh, Deputy Superintendent of Police, Mohindergarh. It has been submitted that the local police of Police Station Kaniaana and Mahendergarh has thoroughly investigated the matter in his presence on the complaint made by the petitioner. But no prima facie case was found against respondents No.9 and 10. The allegation that respondents No.3 to 5 are shielding respondent No.9-Shri Krishan, Ex-Sarpanch of village Kakrala has been denied. The local police has conducted the investigation on the various applications moved by the petitioner on 18.8.2011, 29.8.2011, 22.9.2011 and 5.10.2011 and during investigation nothing has come out to establish that old age pension of Banarsi Devi has been fraudulently withdrawn by anyone. It has also specifically been denied that respondents No.10 and 11 have been receiving old age pension on behalf of Smt. Banarsi Devi rather during the course of investigation by the police, respondent No.10 has tendered her affidavit that she has never received the pension of Smt. Banarsi Devi and in fact she has been receiving her own old age pension from the Social Welfare Department. The very purpose of filing the present petition is ulterior. The petitioner is in the habit of filing such like complaints, which are otherwise baseless. The reply further states that as regard sending of thumb impressions of respondent No.10-Narmada Devi to the FSL Madhuban for comparison with thumb impression of

Banarsi Devi, since Narmada Devi had refused to give her sample thumb impressions, so her thumb impressions could not be sent to the FSL Madhuban. Moreover, there was no provision to send such thumb impression unless a case was registered. Smt. Narmada Devi-respondent No.10 has tendered her affidavit that she has been receiving her own old age pension regularly and according to the rules.

Reply on behalf of respondents No.6 to 8 has also been filed wherein it has been denied that respondent No.9-Shri Krishan is grabbing old age pension of old, poor and helpless persons of village Kakrala. It has been admitted that Banarsi Devi was a widow and as per APR report, Smt. Banarsi Devi was living in Village Kakrala and she was getting old age pension from the Department. The pension was being distributed by respondent No.9-Shri Krishan and Smt. Banarsi Devi had received her widow pension upto September 2007 and in October 2007 she was found absent from the village Kakrala and her pension was stopped from October 2007. The death certificate of Smt. Banarsi Devi shows that she died in July 2008, but as there was no information to the respondent No.8 about the death of Smt. Banarsi Devi her old age pension was being handed over to respondent No.9-Shri Krishan and when during checking period Smt. Banarsi Devi was found absent from the village, then her pension was stopped. The reply filed by respondents No.6 to 8 further suggests that Smt. Banarsi Devi was present in the village upto September 2010. The other lady named Smt. Narmada Devi widow of Chhaju Ram was getting her old age pension upto October 2010. The statement of respondent No.10-

Narmada Devi during inquiry shows that she herself received her old age pension. In this regard an inquiry was conducted by the Investigator of office of respondent No.8 and during this inquiry, the Investigator recorded the statement of Smt. Narmada Devi, in which she stated that she is receiving her own old age pension by putting her thumb impressions.

Respondent No.3-Superintendent of Police, Narnaul has filed the affidavit to the effect that during the course of preliminary inquiry, the local police has found that no cognizable offence was made out in the case. The petitioner was informed that thumb impression of Narmada Devi will be sent to the Finger Print Bureau, Madhuban for comparison with the documents/musterrolls of disbursement of old age pension. However, during the course of inquiry, Smt. Narmada Devi has herself submitted an affidavit asserting that the amount of her old age pension was received by herself personally every month and she has also affixed her thumb impressions on the disbursement registers in token of receipt of old age pension. Therefore, in view of the provision of Section 58 of the Evidence Act, the thumb impression of Smt. Narmada Devi were not sent to Finger Print Bureau, Madhuban for comparison.

I have heard learned counsel for the parties.

The petitioner has levelled the allegations regarding illegally withdrawing/disbursement of pension by respondent No.10-Narmada Devi through respondent No.9-Shri Krishan of one Banarsi Devi, who is sister-in-law of petitioner. Banarsi Devi had drawn pension upto September 2007 and she died on 22.7.2008 and thereafter w.e.f. October 2007 her pension

was stopped. This fact has been fully corroborated in the reply submitted by respondents No.6 to 8, which reads as under :-

“It is admitted that Banarsi Devi was a widow, but as per APR Report, Smt. Banarsi Devi was living in Village Kakrala and she was getting old age pension from the department. The pension was being distributed by respondent No.9 and Smt. Banarsi Devi received her widow pension up to September, 2007 and in October 2007 she found absent from the Village Kakrala and her pension was stopped from October 2007. The death certificate of smt. Banarsi Devi shows that she died in July, 2008. But, there was no information to the respondent No.8 about the death of Smt. Banarsi Devi and due to this reason, her old age pension was being handed over to the respondent No.9 and when during checking period, Smt. Banarsi Devi found absent from the village, then her pension was stopped. The answering respondents do not know whether respondent No.9 received her old age pension by forging her thumb impressions.”

Similarly, regarding illegal withdrawal of pension by respondent No.10-Narmada Devi is concerned, she has submitted an affidavit (Annexure R-1) dated 11.5.2010, which reads as under :-

“I, Narmada Devi w/o Chajju Ram Caste Brahmin, Age 85, R/o Kakrala, District Mohindergarh do hereby affirm and declare as under :-

1. That I am permanent resident of above address.
2. I am receiving old age pension since long time.
3. I have received my pension by affixing my thumb impression.

4. That I have received my pension timely and I have no objection about it. If anybody makes complaint about my old age pension then it is illegal. I have no objection about my old age pension.
5. That I have not given any application about old age pension against Sarpanch and other person. The complaint is false and no action should be taken on this complaint in my name.
6. That I do not want to give specimen of my thumb impression.
7. That the statement made by me is true and correct and nothing has been concealed.”

A perusal of the aforesaid affidavit shows that respondent No.10 has admitted that she has received the pension by affixing her thumb impression and she does not want to give her specimen thumb impression. Once it is established that neither Banarsi Devi nor Narmada Devi are the aggrieved persons and they have admitted the very factum of disbursement of pension regularly, the filing of the present petition by the petitioner shows that he intends to settle some score with the private respondents viz-a-viz respondent No.9, who is Ex-Sarpanch of the village. Once the aggrieved persons have no cause of action, the petitioner has no right to agitate on their behalf.

Therefore, this Court finds no merits in the present petition and the same is hereby dismissed.

July 21, 2016
Vijay Asija

(**HARI PAL VERMA**)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No