

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

Civil Writ Petition No.17257 of 2013
Date of Decision: December 06, 2016

N.S.Sohi Govt. Contractor No.1717/8

...Petitioner

Versus

State of Punjab & Ors.

...Respondents

Civil Writ Petition No.945 of 2014

Sukhbans Pal Singh

...Petitioner

Versus

State of Punjab

...Respondent

Civil Writ Petition No.4636 of 2014

Jagmail Singh

...Petitioner

Versus

State of Punjab & Ors.

...Respondents

Civil Writ Petition No.4240 of 2014

Gurmukh Singh

...Petitioner

Versus

State of Punjab & Ors.

...Respondents

Civil Writ Petition No.9015 of 2013

Tirlochan Singh Kang & Ors.

....Petitioners

Versus

State of Punjab & Ors.

....Respondents

Civil Writ Petition No.21412 of 2013

Ali Hassan

...Petitioner

Versus

State of Punjab & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Manvinder Singh Sidhu, Advocate,
for the petitioner(s)(in CWP Nos.945, 9015 & 17257 of
2013).

Mr.Barjesh Kumar Sharma, Advocate,
for the petitioner (in CWP-4240 & 4636 of 2014).

Mohd. Yousaf, Advocate,
for the petitioner(in CWP-21412 of 2013).

Mr.B.M.Vinayak, DAG, Punjab.

Ms.Promila Nain & Mr.Surinder Pal Advocates
for PSPC (in CWP-4636 of 2014).

Mr.Vivek Sharma, Advocate,
for respondent Nos.2 to 11. (in CWP-9015-2013).

Mr.S.P.Soi, Advocate,
for respondent Nos.2 to 7(in CWP-17257-2013).

Ms.Avin Sandhu, Advocate, for
Mr.Amit Aggarwal, Advocate,
for respondent Nos.2 to 11 (in CWP Nos.21412-2013 &
4240-2014).

Brig.B.S.Taunque, Advocate,
for respondent Nos.2 to 6 (in CWP-945 of 2014).

RAMESHWAR SINGH MALIK, J.(Oral)

Instant order proposes to dispose of these six identical writ
petitions, bearing CWP No.17257 of 2013, titled as “***N.S.Sohi Govt.
Contractor No.1717/8 vs. State of Punjab & Ors.***”; CWP No.945 of
2014 titled as “***Sukhbans Pal Singh vs. State of Punjab***”; CWP
No.4636 of 2014 titled as “***Jagmail Singh vs. State of Punjab & Ors.***”;

CWP No.4240 of 2014 titled as “***Gurmukh Singh vs. State of Punjab & Ors.***”; CWP No.9015 of 2013 titled as “***Tirlochan Singh Kang & Ors. vs. State of Punjab & Ors.***”; and CWP No.21412 of 2013 titled as “***Ali Hassan vs. State of Punjab & Ors.***”, as all these writ petitions raise the same issue as to whether the respondent authorities could have unilaterally and without issuing even a show cause notice or an opportunity of being heard to the petitioners, could have reduced the labour rates for installing electricity poles and that too after completion of work and in some cases, even after making the payment to the petitioners, with a view to recover the alleged excess amount.

However, for the facility of reference, facts have been culled out from CWP No.17257 of 2013 (***N.S.Sohi Govt. Contractor No.1717/8 vs. State of Punjab & Ors.***).

Notice of motion was issued in all these cases and in the meantime, recovery from the petitioners was stayed. Respondents filed their respective written statements.

Heard learned counsel for the parties.

At the very outset, when the learned counsel for the respondents in all these cases were confronted as to how and under what

provisions of law, regulations or policy instruction, they could have unilaterally reduced the labour rates for installing electricity poles drastically, to the detriment of the petitioners/contractors without even issuing any show cause notice or granting an opportunity of being heard to them, learned counsel for the respondents had no answer and rightly so it being a matter of record. They also failed to address any other meaningful argument referring to any relevant material or record which may entitle the respondent authorities to take the impugned action.

Having said that, this Court feels no hesitation to conclude that the impugned action taken by the respondent authorities has been found wholly arbitrary and violative of basic principle of natural justice. It is so said because once the work orders have been issued on a particular agreed rate and the contractors started doing work on basis thereof, respondent authorities had no power to reduce those rates at a later point of time particularly when, there was no such condition in the work order.

In view of the above, it goes without saying that respondent authorities proceeded in most arbitrary manner, passing the impugned orders, which have been found without jurisdiction. It is the settled

proposition of law that nobody can be condemned unheard. In all these cases in hand, respondent authorities have violated the golden rule of *audi alteram partem* while taking the impugned action against the petitioners and the same cannot be upheld, for this reason also.

No other argument was raised.

Considering peculiar facts and circumstances of the case, coupled with the reasons aforementioned, impugned action taken by the respondent authorities has been found patently illegal and the same cannot be upheld. Accordingly, impugned orders in each case are hereby set aside. All these writ petitions deserves to be accepted.

However, keeping in view the peculiar facts and circumstances of the cases, noted herein above, liberty is granted to the respondent authorities to proceed against their concerned officials/officers, whosoever might have worked against the interest of the department, while allegedly conniving with the petitioners, at the time of issuing work orders on higher rates.

It is also made clear that if after reduction of the rates, petitioners would be willing to work, they would be at liberty to do so because execution of subsequent works, on the basis of agreed rates

between the parties would be entirely a different aspect which was not an issue before this Court in these writ petitions.

Resultantly, with the abovesaid observations made and directions issued, all these writ petitions stand allowed, however, with no order as to costs.

December 06, 2016
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No