

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

CWP-1738-2016

Date of decision : 02.05.2016

Tejinder Singh Mour

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE S.S.SARON

Present: Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

S.S.SARON, J.

The writ petition has been filed seeking quashing of the ex-parte order dated 07.10.2013 (Annexure P7) passed by the Punjab State Human Rights Commission, Chandigarh - respondent No.2 and all consequent proceedings arising therefrom including the departmental proceedings (Annexure P13).

The petitioner was posted as Superintendent, Central Jail, Amritsar vide order dated 28.07.2011 and he took charge on 29.07.2011. The petitioner being Superintendent of the Jail had supervisory functions of the Central Jail, Amritsar. While the petitioner was functioning as Superintendent of the Jail, one Rajan Uppal was convicted for the offence punishable under Section 21 of the Narcotic Drugs and Psychotropic

Substances Act, 1985 in case FIR No.97 of 2008 registered at Police Station 'A' Division, Amritsar. He was sentenced to undergo rigorous imprisonment for 10 years, besides, pay a fine of ₹1 lac by the learned Additional Sessions Judge, Amritsar vide his judgment dated 04.06.2011. He was in custody in Central Jail at Amritsar.

The then Minister for Social Welfare, Punjab visited Central Jail, Amritsar on 29.10.2011. At that time, Rajan Uppal was suffering from fever, upon which the jail doctors took note of the same and the said convict along with two others was referred to Civil Hospital, Amritsar for OPD check up vide entry No.377 dated 29.10.2011 (Annexure P2). The medical journal showed that Rajan Uppal was referred to the Civil Hospital, Amritsar for Orthopedic check up and was advised to be sent on Monday i.e. 31.10.2011. It is submitted on behalf of the petitioners that entry No.377 dated 29.10.2011 was not put up before the petitioner who was Jail Superintendent for necessary orders for arranging to take the convicts to the Civil Hospital. The jail doctors had also submitted an application dated 29.10.2011 (Annexure P3) for purchase of medicines for treatment. The said application was allowed by the petitioner on 29.10.2011 itself and marked to the Deputy Superintendent, Central Jail, Amritsar for necessary action. Since entry No.377 dated 29.10.2011 (Annexure P2) was never put up by the jail doctor before the petitioner for jail escort for Rajan Uppal, therefore, he could not be taken to the Civil Hospital, Amritsar on 31.10.2011. He was admitted in the jail

hospital by the doctor for treatment on 31.10.2011. The said Rajan Uppal died in jail for want of medical aid. The petitioner submits that he was not responsible for the same.

It is to be noticed that admittedly, a departmental inquiry (Annexure P13) is pending in this regard.

Learned counsel for the petitioner himself had taken time on 28.01.2016 to await the inquiry report. Therefore, in view the fact that an inquiry is pending and memorandum of charges along with list of documents and witnesses which are part of Annexure P13 have been served on the petitioner, it would be just and expedient that the petitioner pursues his remedy of showing that he is not liable for the death of the convict in jail in the pending inquiry. However, learned counsel for the petitioner apprehends that in the Departmental Inquiry, order dated 07.10.2013 (Annexure P7) passed by the Punjab State Human Rights Commission which is an ex-parte order may affect his rights as the Inquiry Officer may get influenced with the order dated 07.10.2013 of the Punjab State Human Rights Commission. In this regard, it may be stated that in case the order passed by the Punjab State Human Rights Commission is an ex-parte order, the petitioner may show the effect of the same in accordance with law before the Inquiry Officer in the Departmental Inquiry. Therefore, the present writ petition is pre-mature as the question as to whether there was lapse on the part of the petitioner is to be inquired into in the pending departmental inquiry.

Therefore, the petition being pre-mature is dismissed. However, it is made clear that in case the petitioner is aggrieved against outcome of the departmental inquiry, he would be at liberty to assail the same, in accordance with law.

(S.S.SARON)
JUDGE

(GURMIT RAM)
JUDGE

May 02, 2016.
Davinder Kumar