

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

CWP No. 18647 of 2016

DATE OF DECISION : 18.10.2016

Jaswant Singh

.... PETITIONER

Versus

State of Haryana and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. J.P.S. Sidhu, Advocate,
for the petitioner.

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RAMENDRA JAIN, J.

1. In the year 2012-13, a sum of ₹ 5 lacs was sanctioned to Municipal Council, Tohana, to be used for construction of rooms at Qila Mohalla, Ward No.8, Tohana, for Anganwari. The petitioner claims that respondent Nos. 5 to 10 in connivance with each other and also in connivance with officials of Municipal Council, Tohana, in order to misappropriate the government grant, had constructed two rooms on top of already constructed building of stitching center in Qila Mohalla, Valmiki Colony, Tohana, over an old closed well without preparing site plan. No pillar and foundation was constructed for stability of building. No tenders were issued for supply of raw material for construction of the building. Thus, raw material of very inferior quality was purchased from a private contractor, namely Sheeshpal Raheja, in violation of Government instructions. According to the petitioner, the entire building started tilting

on one side due to collapsing of the foundation within one week, on account of which cracks had appeared in the nearby houses belonging to poor people of Valmiki community. In order to hide corruption of its officers/employees, the Municipal Council raised down the building during night and got the raw material removed. In this way, government grant which was sanctioned for construction of Anganwari had been diverted by showing to have been spent for construction of two rooms for further development of Anganwari in Valmiki Mohalla. The petitioner, who is former Vice-President of Municipal Council, Tohana, along with other inhabitants of the locality, submitted representation (Annexure P-2) to all the quarters of the Government for taking action against the officers of the Municipal Council, who were responsible for the misuse of public money and corruption. Accordingly, the Chief Director, State Vigilance Bureau, vide letter dated 27.05.2014 (Annexure P-3) wrote to the Director, Local Bodies Department, Haryana, Chandigarh, for taking action on the complaint made by the petitioner and other inhabitants and affected persons. An enquiry was marked by the Deputy Commissioner to Terhsildar, Tohana, who conducted a shoddy enquiry and vide report dated 23.07.2014 (Annexure P-7) concluded that there is no dereliction of duties by the officers of the Municipal Council. Vide letter dated 10.09.2014 (Annexure P-9), representation of the petitioner was also sent by respondent No.3 to Sub Divisional Officer, Tohana, for inquiry.

2. The aforesaid report dated 23.07.2014 was challenged by the petitioner by filing CWP No. 1760 of 2015, which was dismissed as withdrawn vide order dated 02.02.2015 (Annexure P-8) with liberty to the

petitioner to pursue the complaint/representation (Annexure P-2). The petitioner then again approached respondent Nos.1 to 4, and vide letter dated 10.03.2015 (Annexure P-10), respondent No.3 sent reminder to Sub Divisional Officer, Tohana, to decide the representation of the petitioner. But the respondents have not decided the same.

3. Hence, by way of present writ petition under Article 226 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari to quash the impugned report dated 23.07.2014 (Annexure P-7). Further prayer has been made to issue a writ of mandamus directing respondents No.1 to 3 to enquire into the matter.

4. Learned counsel for the petitioner argued that two rooms on the top of already constructed building of stitching center in Qila Mohalla, Valmiki Colony, Tohana, were got constructed by respondent Nos. 5 to 10 in connivance with each other, after conniving with officials of Municipal Council, Tohana, without any sanctioned plan and without finding out the viability of the land on which stitching centre was proposed to be constructed. No pillar and foundation was constructed for stability of the building. Raw material of inferior quality was purchased for the building from a private contractor, without inviting tenders for the same. Due to construction of double storey building on the top of the well, and due to collapsing of the foundation, when the entire building started tilting within one week, resulting into cracks in the nearby houses, the Municipal Council demolished the building during the night. The higher officers had not given any approval to the construction and demolition of the building. The building was constructed only as an eye wash to misappropriate the

government funds of lacs of rupees, without caring for the life and property of the residents of the locality.

5. After giving our thoughtful consideration to the contentions raised by learned counsel for the petitioner, we are of the opinion that the allegations made by the petitioner are disputed questions of fact, which require evidence, more particularly when upon asking of the Deputy Commissioner to Tehsildar, Tohana, he conducted an enquiry upon the complaint of the petitioner and found no irregularity or dereliction of duties by respondent Nos. 6 to 10. It is needless to mention here that this court is not to act as a court of appeal and under the extra ordinary writ jurisdiction, such questions of fact cannot be decided by this court. Thus, we are not inclined to entertain this petition, when the representation of the petitioner on enquiry has already been found substanceless. However, to redress his grievances, the petitioner is at liberty to seek his remedies before appropriate forum in accordance with law.

6. Petition is, accordingly, dismissed.

**(RAMENDRA JAIN)
JUDGE**

October 18, 2016
ndj

**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No