

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

CWP No. 19752 of 2016 (O&M)

Date of decision: 22.09.2016.

Dr. Himat Chand

..... Petitioner.

Versus

Union of India and others

..... Respondents.

**CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MS. JUSTICE LISA GILL**

Present: Mr. Arjun Sheoran, Advocate, for the petitioner.

S.S. SARON, J.

The civil writ petition has been filed by making the following substantive prayers:-

- “(i) issue a writ in the nature of *mandamus* or any other appropriate writ to constitute an enquiry committee under the supervision of this Hon'ble High Court or any suitable appropriate authority as deemed fit by this Hon'ble High Court;
- (ii) direct initiation of an enquiry to inquire whether administrative/departmental action needs to be taken against the errant government officials responsible for non-implementation of the government's orders in the present case which has led to a loss to the public exchequer;
- (iii) any other writ, order or direction to which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

However, in the headnote of the petition, it is stated that the

petition is in the form of a public interest litigation for issuance of an appropriate writ or ordering a probe with regard to embezzlement, misappropriation of funds, misuse of official position, cheating, forgery etc. by the Centre for Research in Rural and Industrial Development, Chandigarh (respondent No. 6) and others, who, it is stated, have not only caused loss to the public exchequer but also defrauded the Union of India (respondent No. 1); Ministry of Human Resources Development, New Delhi (respondent No. 2); Indian Council of Social Science Research, New Delhi (respondent No. 4) and Government of Punjab, Department of Planning, Civil Secretariat, Punjab, Chandigarh (respondent No. 5) and for handing over the probe to the Central Bureau of Investigation for consequent action thereafter.

The petitioner, on the one hand, has prayed for ordering a probe with regard to embezzlement, misappropriation of funds, misuse of official position, cheating, forgery etc. while, on the other hand, he has prayed for constitution of an enquiry committee under the supervision of this Court or any suitable appropriate authority as this Court deems fit; besides, directing initiation of an inquiry to inquire whether administrative/ departmental action needs to be taken against the errant government officials responsible for non-implementation of the government's orders in the present case which has led to a loss to the public exchequer.

The petitioner, it is stated, has filed two petitions which are pending in this Court in matters relating to service law dispute between him and the Centre for Research in Rural and Industrial Development, Chandigarh (respondent No. 6). Therefore, we are of the view that the

present petition is not in the nature of a public interest petition as has been labelled by the petitioner but it is in the nature of a private interest litigation where the petitioner may be wanting to settle his score with the Centre for Research in Rural and Industrial Development, Chandigarh (respondent No.6). Besides, in case there is any misappropriation, embezzlement of funds or fraud in the State exchequer, he may get an FIR registered with the police.

The Supreme Court in **Sakiri Vasu v. State of Uttar Pradesh and others** (2008) 2 SCC 409, has held that no one can insist that an offence be investigated by a particular agency. An aggrieved person can only claim that the offence that he alleges be investigated properly, but he has no right to claim that it should be investigated by any particular agency of his choice. Besides, where the police is not registering an FIR, then the first remedy of the complainant is to approach the Superintendent of Police under Section 154 (3) of the Code of Criminal Procedure ('Cr.P.C.' - for short) or other police officer as referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156 (3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover, he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C. Therefore, it was observed, why then should writ petitions or petitions under Section 482 Cr.P.C. be entertained when there are so many alternative remedies. In the present case, the petitioner has not approached the police for the registration of an FIR. Besides, the Supreme Court in case

A.R.Antulay v. Ramdas Srinivas Nayak and another AIR 1984 Supreme Court 718, has held that it is a well recognized principle of criminal jurisprudence that anyone can set or put the criminal law into motion except where the statute enacting or creating an offence indicates to the contrary. *Locus standi* of the complainant is a concept foreign to criminal jurisprudence save and except that where the statute creating an offence provides for the eligibility of the complainant by necessary implication, the general principle gets excluded by such statutory provisions.

In the circumstances, the petitioner has other efficacious remedies of filing a complaint before the police or a private complaint, as the case may be, in respect of the allegations of fraud, embezzlement, misappropriation of funds, cheating and forgery etc. that he alleges.

Keeping in view the fact that the petitioner is already in litigation with the Centre for Research in Rural and Industrial Development, Chandigarh (respondent No. 6), it would be inappropriate to entertain a public interest litigation at his behest.

Accordingly, the writ petition is dismissed. However, the petitioner may, if so advised, avail his alternative remedies.

(S.S. SARON)
JUDGE

(LISA GILL)
JUDGE

22.09.2016
Ramesh

Note:

1. Whether speaking/reasoned : Yes
2. Whether reportable : Yes