

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

**CWP No. 19938 of 2016
Date of decision: 22.11.2016**

Parampal Singh Sidhu, IPS

.....Petitioner

Vs.

Central Administrative Tribunal, Chandigarh Bench and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: Dr. G.K.S. Taank, Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. Prayer in this petition filed under Articles 226/227 of the Constitution of India is for quashing the impugned order dated 7.9.2016, Annexure P.1 passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (CAT) dismissing the original application filed by the petitioner against the charge sheet issued to him and appointment of respondent No.6 (though the correct respondent is respondent No.7) as Enquiry Officer.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner was recruited/appointed as Direct Recruit PPS officer in the department of police, Punjab. With the passage of time, the petitioner was granted a number of promotions and presently, he is working in Indian Police Service as Inspector General of Police, Special Narcotics Cell, Pathankot, Punjab. There was no complaint against the petitioner. In the middle of 2011, the brother of the petitioner Shri Fakir Ishawar Dass Singh Sidhu decided to contest the Punjab State Legislative Assembly elections from Legislative Assembly Constituency, Lambi as an independent candidate and started his election campaign from where respondent No.5 had been contesting the election and winning the same. Respondent No.5 sent a message to the petitioner to restrain his brother and ask him to withdraw from the election contest in his favour. The petitioner talked to his brother but he did not agree. The petitioner expressed his inability to restrain his brother which annoyed respondent No.5. Accordingly, the petitioner was transferred from the post of Commissioner of Police, Amritsar to PAP Jalandhar as Inspector General Police though the tenure of the petitioner had not expired and there was no complaint against him. Elections were due in the month of February 2012. The brother of the petitioner filed his papers as an independent candidate from Lambi Constituency. Respondent No.5 in January 2012 through his party spokesperson gave a false complaint against the petitioner during the election campaign to the Election Commission of India. Explanation of the petitioner was sought and a report from Chief Electoral officer, Punjab was called. The petitioner submitted his reply. After considering the reply and the report, the Election Commission of India found the complaint to be absolutely false and dismissed the same. In February

2012, respondent No.5 won the election. He formed the Government in the State of Punjab as Chief Minister. The petitioner was again transferred from PAP Jalandhar to Special Narcotics Cell, Pathankot where there was no office, official residence and staff. According to the petitioner, this was done by respondent No.5 out of political vendetta. On 20.8.2014, respondent No.5 visited the site of Sherwood Officers Society (in short, "the society") and issued instructions to the Vigilance Bureau to start a vigilance enquiry against the petitioner as a member of the society. On 2.9.2014, a show cause notice was issued to the petitioner by the Vigilance Bureau. The petitioner submitted his reply to the notice. On 29.3.2016, the orders of promotion of IPS officers of 1991 batch were issued but the name of the petitioner was not sent to the Departmental Promotion Committee for considering him for further promotion to the level of Additional Director General of Police. On 6.4.2016, the petitioner was served with a charge sheet by respondent No.3. The petitioner was asked to submit his reply within 20 days from the date of receipt of the charge sheet. On 7.4.2016, the petitioner wrote a letter to the Director General of Police praying for fixing date and time of inspection of the listed documents but no reply had been received. On 23.4.2016, the petitioner submitted reply to the charge sheet denying the charges as false. On 31.5.2016, respondent No.3 rejected the reply of the petitioner by appointing respondent No.7 as Enquiry officer. A member of the Sherwood officers Housing Society Shri Parshotam Singh Gujral had invested some amount in the said society. When the society ran into trouble, the said person started demanding back his money. He filed a complaint with the State Vigilance Bureau. However, the matter was compromised. The said complaint was against the society and not the petitioner. According to the petitioner, since the society in question was not covered under Rule 13 of

All India Services (Conduct) Rules, 1968, (in short, “the Rules”) there was no question of seeking prior approval of the Government before becoming the member of such society. The petitioner had intimated the Government regarding the fact of joining the society as primary member without any investment made by him in the said society. Thus, no rule was violated by the petitioner. Hence the instant writ petition by the petitioner.

3. We have heard learned counsel for the petitioner.

4. Rule 13(2) of the Rules reads as under:-

“A member of the service may, without previous sanction of Government:-1

- (a)
- (b)
- (c)
- (d) take part in registration, promotion, management (not involving the holding of an elective office) of a literary, scientific or charitable society or a club or similar organization, the aim of objectives of which relate to promotion of sports, cultural or the recreation activities, registered under the Societies Registration Act 1860 (21 of 1860) or any other law for the time being in force or
- (e) take part in registration, promotion or management (not involving holding of elective office) of a cooperative society substantially for the benefit of the members of the service or government servants, registered under the Cooperative Societies Act 1912 (2 of 1912) or any other law for the time being in force.

Provided that:-

- (i) he shall discontinue taking part in such activities if so directed by government and
- (ii) in a case falling under clause (e) of this sub rule, his official duties shall not suffer thereby and he shall

within a period of one month of taking part in such activities report to the government giving the detail of the nature of his participation.”

5. Article 4 of Memorandum and Articles of Association of Sherwood Officer Society, Amritsar (Annexure A-16) reads as follows:-

“Article 4 : Aims and Objects

The society shall work for the pursuit and attainment of the following aims and objects:-

- (i) To promote the cause of education by providing and imparting quality education in general and to set up and manage such Schools, Colleges or Institutions as may be necessary for the attainment of this object and to do and undertake all related acts/activities e.g. to get affiliations including franchises with various Boards, Universities, Institutions, academies etc.
- (ii) To promote the cause of games and sports in general and swimming, golf, shooting and polo in particular and to establish and manage such clubs, academies, resorts or institutions and undertake
- (iii) To ensure the diffusion of useful knowledge in various fields especially modern housing and the art and style of healthy and quality living to public in general and to members in particular by acquainting them with latest advancements in the fields of architecture housing and body upkeep and by practically providing them with latest facilities in the fields of sports and housing.
- (iv) To design and develop/get developed for the members and the public ultramodern housing facilities, club facilities, sports facilities, resorts facilities, commercial complexes/arcades and such other facilities, resorts deemed fit for promoting fellow-feeling and sense of belongingness among members and for betterment of life and to provide the same at highly competitive prices on a no-profit-no-loss basis to members and such

other persons as may be deemed fit by the Governing Council.

(v)

(vi) To purchase, take on lease or in exchange, hire or otherwise acquire any moveable or immovable property or right and to sell, lease, mortgage charge, improve, alter or otherwise deal with the same
.....”

6. After considering the entire facts and the relevant Rule, it has been recorded by the Tribunal that the activities of the Sherwood Officers Housing Society were far beyond literary, scientific, charitable, sports, cultural and recreational purposes. Prior sanction was required to be taken from the Government. Thus, the petitioner could not take the shelter of Rule 13(2) of the Rules. The operative part of the order passed by the Tribunal reads thus:-

“Cursory reading of the same (statutory provision) would show that the activities of the Sherwood officers Society go far beyond literary, scientific, charitable, sports, cultural and recreational purposes. Hence, it would appear that the applicant cannot take the shelter of Rule 13(2) of the All India Service (Conduct) Rules while claiming that previous sanction of the Government was not required before taking part in the registration and management of the Sherwood Officers society.

6. Hence we conclude that there is no case for staying the disciplinary proceedings against the applicant and these should be taken to their logical conclusion. Needless to state, the applicant shall have full opportunity to defend himself in the matter as per the All India Service (Discipline and Appeal) Rules, 1969. The OA is accordingly dismissed in limine.”

7. Learned counsel for the petitioner has not been able to produce any material on record to substantiate the claim made by the petitioner or to

controvert the findings recorded by the Tribunal. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

November 22, 2016
‘gs’

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes

