

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.26425 of 2015

Date of Decision: 11.01.2016

Naresh Kumar

... Petitioner

Versus

The State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ramandeep Singh Pandher, Advocate,
for the petitioner.

Mr. Inqulab Nagpal, AAG, Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

1. Heard the respective counsel for the parties. No ground for interference is made out in the impugned transfer order. Neither clear case of malafides has been made out nor any alleged unfairness has been imputed against the transferring authority.

2. The only document on which reliance is placed at the hearing to allege bad faith is the letter written by one Sh. Anil Bajaj, President, District Patiala (Urban) BJP which is said to be the root cause of the grievance. It is said that this letter has adversely affected his right to remain at his place of posting. The letter reads as follows:-

“Hon'ble President

Jai Hind

Humbly submitted that Sh. Naresh Kumar, District Programme Officer, is posted at Patiala. He is born at and resident of Distt. Patiala itself. His way of working is like a

party work and not as a government officer. He is closely related to former minister of Congress and current M.L.A. He is under Women & Child Development Department.

In the public welfare, he may be posted far away from Patiala Distt., so that general people may get benefit of public welfare scheme of the government without any discrimination.

Thanking you,

*Yours truly,
Sd/-
Anil Bajaj”*

3. From this document, it is asserted that injustice has been caused to the petitioner. It is always open to representatives of the people and functionaries of the political parties to make bona fide demands and make recommendations to the Government with respect to their *halqas* regarding matters involving public dealing in public interest, but the Government is not bound by such recommendations and must act independently. This is the view expressed by Division Bench of this Court in **Rajinder Singh v. State of Punjab & Ors**, ILR 1996 (1) (P & H) 133 and the Supreme Court in **Mohd. Masood Ahmad vs. State of U.P. & Ors.**, 2007 (8) SCC 150.

4. Both the petitioner and the 3rd respondent have spent considerable time posted at Patiala and one cannot be said to be in better position or worse off than the other. As far as the 3rd respondent is concerned, her case is explained by Mr. Nagpal as a couple case and that reasonably classifies her posting at Patiala.

5. I find no infirmity in the impugned order passed under directions of this Court in the previous petition filed by the petitioner calling upon the respondents to dispose of a representation by a reasoned order, which is how the impugned order has been passed. It is settled

position in law that in absence or unfairness and malafides the Court or Tribunal should not issue directions, see **Union of India v. H.N.Kirtania**, AIR 1989 SC 1774. See also **Rajinder v. Union of India**, (1993) 1 SCC 148; **Shilpi Bose (Mrs) v. State of Bihar**, AIR 1991 SC 532; **Union of India v. S.L.Abbas**, AIR 1993 SC 2444.

6. There is hardly any merit in this petition warranting interference in writ jurisdiction.

7. Hence, the petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

11.01.2016
manju