

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

LPA No.88 of 2016 (O&M)
Date of Decision: 05.04.2016

State of Haryana

... Appellant

VS.

Vinod Bhayana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE P.B. BAJANTHRI

Present: Ms. Palika Monga, DAG Haryana for appellant

Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Arjun Pratap Atma Ram, Advocate and
Mr. R.Kartikeya, Advocate for respondent No.1

SURYA KANT, J. (Oral)

(1) This order shall dispose of LPA Nos.88,96,97,98&99 of 2016 as the point in issue is common. For facts, LPA No.88 of 2016 is treated as the lead case.

(2) The State of Haryana has preferred this Letters Patent Appeal against the order dated 24.12.2015 whereby learned Single Judge after hearing the writ petition for two days at preliminary stage, called upon the respondents and after noticing various contentions of the respondent/writ-petitioner(s) and following earlier decisions/interlocutory order passed by this Court in a similar matter, issued interim directions that till the next date of hearing no further action pursuant to the recommendations made by Lokayukta, Haryana, for registration of FIR against the respondent/writ-petitioner(s) be taken.

(3) The State of Haryana unfortunately instead of seeking vacation/modification of the *ex parte* interim order under Article 226(3) of the Constitution of India, preferred the instant Letters Patent Appeal(s) in which a Division Bench of this Court while issuing notice to the writ-Petitioner, meantime stayed operation of the order passed by the learned Single Judge.

(4) Armed with the *ex parte* interim order dated 22.01.2016 of the Division Bench, the State police registered FIR(s) against the respondent/writ-petitioner(s).

(5) The State of Haryana or its authorities did not even put in an appearance in the Court of learned Single Judge, before registering the FIR and obviously no written statement has been filed and the writ petition is yet to be heard after the preliminary stage.

(6) Heard learned counsel for the parties in this appeal and record perused.

(7) Though we have serious doubts on the maintainability of these Letters Patent Appeals, nevertheless, such an issue need not be determined now, for the learned Single Judge is fully empowered to proceed further and decide the writ petition on merits in the manner as he may deem appropriate.

(8) What must draw attention is that in view of the *ex parte ad interim* stay order dated 24.12.2015 passed by learned

Single Judge the State Government could not have accepted or rejected the report of the Lokayukta and resultantly no FIR could be registered. But as a consequence effect of the *ex parte* interim order dated 22.01.2016 passed by the Division Bench is that the appellant-State, regardless of the fact that the matter was still sub-judice, accepted the recommendations made by Lokayukta and has registered the resultant FIR(s).

(9) In these circumstances when the FIR has been registered, we are of the considered view that the nature of *ad interim* protection to which the respondent-writ petitioner(s) might be entitled to till the matter is decided by learned Single Judge on merits, also deserves to be left to the absolute discretion of the learned Single Judge. We thus dispose of these appeals clarifying that there shall be no legal impediment for the learned Single Judge to issue appropriate *ad interim* protection/directions in the changed circumstances, in the interest of justice, if a case to this effect is made out. The interim order dated 22.01.2016 which in any case stands merged with this final order, shall in no way have any obstacle against the grant of re-modulated *ad interim* relief to the respondent-writ petitioner(s).

(10) The appellant-State or other contesting respondent(s) in the writ petition are directed to file their reply/affidavits in the writ proceedings at the earliest. Till the *ad interim* stay matter is

decided by learned Single Judge, no report under Section 173 CrPC shall be presented against the respondent-writ petitioner(s).

(11) Ordered accordingly.

(Surya Kant)
Judge

05.04.2016
vishal shonkar

(P.B. Bajanthri)
Judge