

R.A.No.456 of 2015 (O&M) in CWP No.3 of 2011 { 1 }

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: August 23, 2016

Parveen Kumari & others

Applicant-respondents

Versus

State of Haryana & others

Non-applicant/Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Puneet Bali, Senior Advocate with
Mr.Bijender Sharma, Advocate,
for applicant-respondent Nos.13 to 35 in RA No.456/15 &
for applicant-respondent Nos.36 to 52 in RA No.458/15.

Mr.Anmol Rattan Sidhu, Senior Advocate with
Mr.Suvir Sidhu, Advocate &
Mr.Shranav Katyal, Advocate,
for applicant-respondent Nos.13 to 21 in RA No.259/16.

Mr.Preetinder Singh Ahluwalia, Advocate,
for applicant-respondent Nos.53 to 59 in RA No.257/16.

Mr.D.S.Nalwa, Addl.Advocate General, Haryana,
for the State.

Mr.Jasbir Mor, Advocate.

AMIT RAWAL, J. (Oral)

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The prayer in the application is for condoning the delay of 351 days in filing the review application seeking review of the order passed in CWP No.3 of 2011.

I am of the view that in view of the Full Bench decision of this Court in **Teja Singh Versus The Union Territory of Chandigarh & others, 1982 AIR (Punjab) 169**, Limitation Act is not applicable in the review applications to be filed in writ petitions, except where there is a gross delay and laches. However, the fact remains that the applicants were not party in the writ petition and, therefore, the order has been passed at their back. On coming to know of the proposed criminal action, this Court has been approached, so, accordingly, I deem it appropriate to condone the delay in filing the review application.

CM stands disposed of.

CM No.10084 of 2016 in RA No.257 of 2016

CM No.10159 of 2016 in RA No.259 of 2016

CM No.15041 of 2015 in RA No.456 of 2015

CM No.15065 of 2015 in RA No.458 of 2015

Prayer in the applications is for impleading the applicants as respondents.

Since the proposed criminal action is being taken against the applicants as they were not party in the writ petition and the order under review has been passed at their back and , they have approached this

Court for impleading them as respondents, so I deem it appropriate to

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implead them as party respondents. Ordered accordingly.

Registry is directed to make necessary correction in the memo of parties.

Applications stand dispose of.

Review Petitions Nos.456 and 458 of 2015, 257 and 259 of 2016.

This order of mine shall dispose of four Review Petitions bearing Nos.456 and 458 of 2015, 257 and 259 of 2016.

Mr.Puneet Bali, Senior Advocate assisted by Mr.Bijender Sharma, Advocate, representing applicant-respondent Nos.13 to 35 in RA No.456/15 and applicant-respondent Nos.36 to 52 in RA No.458/15 fairly concedes that applicant Nos.15 and 29 as mentioned at Pages 155 and 156A have wrongly filed the review petition as they are falling in the category where the persons have been categorized, i.e., Category No.1 in the affidavit dated 2.8.2015.

Mr.Puneet Bali, Senior Advocate assisted by Mr.Bijender Sharma, Advocate, Mr.Anmol Rattan Sidhu, Senior Advocate assisted by Mr.Shranav Katyal, Advocate and Mr.Preetinder Singh Ahluwalia, Advocate, representing the applicant-respondents submit that the pith and substance of the review petitions is that the Department has not undertaken the correct exercise in placing the persons in Category-II, in essence the persons whose signatures have not been ascertained or found

to be forged yet found to be in the category of 581 selected candidates. As per the report, though their signatures have not been ascertained to be forged one and, therefore, they should have been put in Category-III, resultantly, the Department should have sent their names for re-comparison in pursuance to direction No.iv in the order sought to be reviewed. They further submit that in view of such ambiguities and lacunae, yet as per direction No.(iv), FIRs have been registered against the review petitioners and in some cases, challans have also been filed. Non-applicant/petitioners have made an attempt to apprise the Investigating Officer with regard to their role and as well as the report of the FSL, but did not yield any result or any heed to direction No.(v).

Notice of Review Petition Nos.456 and 458 of 2015 was issued to the State and the State has already filed the reply. The replies of the State filed in the said review petitions are basically the one and can be considered in all other review petitions, for, the stand is consistent.

Mr.D.S.Nalwa, learned Additional Advocate General, Haryana appearing for the State and Mr.Jasbir Mor, learned counsel for the non-applicant/petitioners submit that there were two occasions before the case could be opened for alleged forgery, (i) when the applicants had submitted their signatures, though the same have been referred to as “R” ; and (ii) where candidates signed on the answer sheet.

Owing to the filing of the review petitions, specimen signatures of all the candidates have been taken and the same have been referred as “S”. Since there was no consistency in the signatures “R” and “Q”, therefore, the applicants have been put in category 581 of selected candidates. They further submit that the report of the FSL has been examined threadbare and there has been application of mind, for, before preparing the list, as indicated in the affidavit aforementioned, the specimen signatures taken in pursuance to the direction given by this Court has also been taken care of/noted and, thus, urge that there is no scope of interference in the review petitions as there is no error apparent on record and, thus, pray for dismissal of the review petitions.

I have heard the learned counsel for the parties and appraised the paper book.

I am of the view that there is force and merit in the submissions of the learned counsel for the applicants, for, the Department has not examined the report in its correct perspective, in essence from the conclusive part of the report, it appears that it has been read in bits and pieces.

During the course of the arguments, learned counsel have drawn the attention of this Court to report (Annexure P-8) for drawing an inference that the candidates, whose signatures, have not been found

to be forged, have been again sent to FSL for ascertaining the report, but owing to the aforementioned fact, the persons, whose signatures have been found to be correct, have erroneously been categorised in Category-II , i.e., 581 selected candidates and they are unnecessarily facing the wrath of the criminal prosecution. The directions of this Court have not diligently been followed by the State. Even in some cases where the signatures of the candidates have been found to be genuine and correct, even then they have been put in Category-II. In such eventuality, I am of the view that the matter is required to be re-examined at the level of the State. Accordingly, the direction is issued to the State to examine the report of the FSL as a whole and not in bits and pieces and thereafter on comparison of the report, place them in the correct category. Till this exercise is undertaken, I issue a further direction that the criminal action, so undertaken against the applicants, shall be kept in abeyance, i.e., qua the applicants only. In case the applicants are again aggrieved of the report, they shall be at liberty to seek the vindication of the grievance in accordance with law. This exercise should be done within a period of two months from the date of receipt of certified copy of this order.

The State shall be at liberty to take the assistance of the expert in examining the report of the FSL.

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With the aforementioned directions, the review petitions stand disposed of.

August 23, 2016
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(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No