

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

COCP No. 2863 of 2014

Date of decision : 12.05.2017

Courts on its own Motion

....Petitioner

V/s

Rakesh Singh, A Venu Prasad & Anurag Verma

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Ms. Sarita Saxena, Advocate as amicus curiae.

Mr. J.S. Puri, Addl. A.G. Haryana.

RAJAN GUPTA J.

Petitioner alleges violation of order passed by writ court. At the outset it has been submitted that the order passed by Single Bench has been set-aside in LPA No. 1395 of 2015. Only question which survives is whether undertaking given before Single Bench by way of affidavits had been adhered to.

Learned counsel representing the State submits that LPA Bench dealt with this issue as well and came to the conclusion that no commitment and undertaking had been given by the officers. Relevant paras of the judgment delivered in aforesaid LPA are as under:-

“[51] The above re-produced contents of the affidavit unambiguously clarify there was no 'commitment' or 'undertaking' given to implement the report of Officers' Committee. Contrarily, the Court was informed that the matter would be examined by Government at different levels and it was also required to be put up before the Council of Ministers.

[52] The then Excise and Taxation Commissioner also in his affidavit dated 19.02.2013 filed in COCP No.3658 of 2012

referred to the constitution of Committee and the report submitted by it. Thereafter, he has observed in para-4 that “the matter is under active consideration of the Government”.

[53] The Chief Secretary, Punjab filed yet another affidavit dated 26.04.2013 informing that report of the Committee was examined by the Government on various levels and thereafter a speaking order dated 16.04.2013 (R-2) was passed. He regretted for the delay in decision as the file had to be routed through various offices including the Chief Minister, Punjab.

[54] There is no affidavit by the Excise and Taxation Commissioner saying that the recommendations to be made by Officers’ Committee would be binding or will be given effect.

[55] The Officers’ Committee was constituted for the aid and advice of the State Government to reach a just conclusion. None of the Officers in the Committee was competent to offer appointments as no such power was vested in them under the Rules of Business or Departmental Service Rules. Such a policy decision was required to be taken at the level of Council of Ministers only, hence the file was submitted to the Minister-in-Charge and then to the Chief Minister, Punjab. It was at the highest level that the decision not to appoint the respondents was taken as per the Rules. The said Competent Authority was entitled to disagree with the report of the Officers’ Committee and take its own decision.”

In view of above, I am of the considered view that no cause of action survives in this petition. Same is hereby dismissed. Rule is discharged.

May 12, 2017

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No