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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 10993 of 2007 (O&M)
Date of Decision: 14.02.2017

SANTOSH KUMAR

... PETITIONER

VS.

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Ms. Jigyasa Tanwar, Advocate,
 for the petitioner.

Mr. K.S. Nalwa, Addl.A.G., Punjab.

KULDIP SINGH, J (ORAL)

On the request of learned counsel for the petitioner, the present petition is ordered to be segregated from the CWP No. 38559 of 2011 and is being dispose of accordingly.

The petitioner has preferred the writ petition filed under Article 226/227 of the Constitution of India for issuance of writ in the nature of mandamus for directing respondents No. 1 to 4 not to conduct repeated enquiries involving the same facts and for issuance of directions for granting stay of proceedings in enquiry No. F.C. No. 16/06. Further prayer is made for issuance of direction to respondent Nos. 1 to 4 to disclose the credentials of the respondent No. 5 and to follow the Government instructions as contained in Chapter II Rule 5.1 and 5.2 of the Vigilance Manual.

Brief facts of this case are that the petitioner was working as Sub Divisional Officer in the Municipal Corporation, Ludhiana. He has now retired from service in the year 2010. It comes out that on 13.10.2004, a news item appeared in the newspaper "Amar Ujala" (Annexure P-1) wherein allegations were leveled against the petitioner for amassing the property

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worth crores, mentioning that complaint was received from one Hartej Singh-respondent No. 5. It comes out that as a consequence thereof, Vigilance Bureau, Punjab had registered an enquiry F.C. No. 162/05 against the petitioner. The enquiry was conducted by the Deputy Superintendent of Police (D.S.P.), Vigilance Bureau, Unit II, Ludhiana, regarding following six charges: -

1. *There is a Dairy Farm for 200 cows situated on 7 acres land in the name of the suspect.*
2. *The tyre, tube company (factory) with turnover has been established by the suspect at Village Kanganwal, which is namely TRAYAF.*
3. *The suspect owns labour quarter at the backside of the factory.*
4. *The suspect has entered into partnership in the name of his wife Smt. Suvita Dhiman in the firm namely, Green Valley Sider Private Ltd., Shimla, wherein the shares of ₹ 3,600/- and the shares of ₹ 5,000/- have been found to be purchased on date 20.11.2003 and 10.12.2003 respectively, the price of share is ₹ 10/-.*
5. *The case FIR has already been lodged against the wife of suspect and the Directors of Green Valley Sider Private Limited Shimla in respect of grabbing of plot No. 52.*
6. *There is charge regarding the foreign visit of the wife of the suspect as well as the purchase of the said shares of the U.T.I., National Saving Certificates to the tune of lacs of rupees.*

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After conducting the enquiry, the DSP submitted the report in the year 2006 stating that the charges against the suspect have not been found to be corroborated, hence, the said complaint should be filed. However, it comes out that the Chief Director, Vigilance Bureau in a communication dated 28.06.2006 (Annexure P-3) addressed to the Deputy Inspector General (D.I.G.), Vigilance Bureau, I.O. Branch, Punjab, has directed and that the allegations levelled in the complaint mentioned in the subject needs to be cross checked. Apart from this, the properties accumulated by the accused in the names of his relatives and the investigation of the remaining frauds be got conducted by some other Officer and the report thereof be sent to the office. Accordingly, another enquiry was conducted by another DSP, Vigilance Bureau, Punjab, Ropar who submitted the report dated 19.09.2006 (Annexure P-4) stating that in the enquiry, the charges levelled against the suspects are not proved, therefore, he suggests that the complaint be filed. The recommendations in this regard were also made by the Senior Superintendent of Police (SSP), Vigilance Bureau Range, Ludhiana to Deputy Inspector General, Vigilance Bureau, EO Range, Ludhiana vide letter dated 27.09.2006 (Annexure P-5). However, certain objections were raised by the Head Office which were removed vide report dated 13.10.2006 (Annexure P-6) by giving the clarification by the said Deputy Superintendent of Police, Sh. Banarasi Dass again reiterating that since, the charges have not been proved, therefore, he recommended that the said complaint be filed. The Senior Superintendent of Police, Vigilance Bureau Range, Ludhiana, in a communication letter dated 17.10.2006 (Annexure P-7) addressed to Deputy Inspector General, Vigilance Bureau, EO Range, Ludhiana, has

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recommended that this F.C. Report be filed and submitted for appropriate action.

Now, the grouse of the petitioner is that he has received another letter dated 08.01.2007 (Annexure P-8) stating about enquiry F.C 16/06-Ludhiana, whereby, he was directed to submit his comments. Copy of the complaint dated 13.10.2007 (Annexure P-12-A) received by the petitioner shows that it is on the basis of the complaint of one Hartej Singh wherein allegations are that the petitioner having a Dairy Farm in 2000 yards and with 200 cows, tyre-tube factory near Sherpur Chowk with annual turnover of ₹2.00 Crores and apple orchard worth ₹80.00 Lakhs in Himachal Pradesh and also recently starting a liquor unit with a cost of ₹1.00 Crore in Samrala, in which his wife is the Managing Director.

It also comes out that vide interim order dated 24.07.2007 of this Court, further proceedings in the enquiry were stayed.

In the reply, while reiterating the facts, the Vigilance Bureau has reiterated its right to investigate the complaint. It was stated that the petitioner is being heard and no FIR has been registered so far.

I have heard the learned counsel for both the parties and have carefully gone through the case file.

Admittedly, regarding the allegations mentioned in the second complaint regarding Dairy Farm and Tyre Tube Factory, the matter has been already been investigated thrice by different officers. Therefore, the same cannot be re-investigated repeatedly. Further, the allegations of apple orchard worth ₹80.00 Lakhs in Himachal Pradesh and liquor Unit worth ₹1.00 Crore in Samrala in which wife of the petitioner is stated to be the Managing

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Director, are the new allegations which were never enquired into in the earlier complaint. The powers of the Court to intervene in the pending enquiry are very limited. In the present case, the allegations are of amassing the properties worth crores of rupees and this Court, at this stage, cannot say that the said complaint is false and that the enquiry is malicious.

In these circumstances, the respondents cannot be restrained from enquiring into those allegations which were not enquired into in the earlier enquiry. However, in order to avoid any harassment to the petitioner, a time frame can be given to the respondents to complete the enquiry with a direction not to initiate second enquiry on the same subject matter.

In view of the matter, the present petition is disposed with a direction that the enquiry bearing No. 16/06 initiated by the Vigilance Bureau, Ludhiana can continue except the enquiry regarding Dairy Farms in 2000 yards and tyre tube factory at Sherpur Chowk which has already been enquired into thrice by the different officers.

Learned State counsel, seeks minimum three months time to finalize the enquiry. However, in view of the difficulties faced in the working by the police officials, they are given six months time to conclude the enquiry regarding remaining allegations except those which have been already enquired into by different officers as referred above, finalize the same and send a copy of the report/communication to the petitioner within said period. The petitioner is also directed to co-operate in the said enquiry. Thereafter, the vigilance bureau can act on the basis of the conclusion of the enquiry.

It is further directed that since, the enquiry is ordered to be completed within six months, therefore, pending the disposal of the enquiry,

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50% of the gratuity of the petitioner, which has been withheld by the respondent-Corporation, is ordered to be released. If after the conclusion of the enquiry, the petitioner stands exonerated, the remaining amount shall also be released to him along with interest as per Government’s instructions.

February 14, 2017

Suresh Kumar

(KULDIP SINGH)
JUDGE

Whether speaking / reasoned	:	✓ Yes / No
Whether Reportable	:	Yes / ✓ No