

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

CRR No.3698 of 2016 (O&M)

Date of decision : 22.02.2017

Ombir Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Rahul Rathore, Advocate for the petitioner.

...

TEJINDER SINGH DHINDSA, J (Oral).

Petitioner who was serving as Manager (Quality Control) Veeta Milk Plant, Kurukshetra faces prosecution in case FIR No.8, dated 04.08.2016, under Sections 7, 13(2) read with Section 13(1)(d)(1) of the Prevention of Corruption Act, registered at Police Station SVB Ambala.

The instant revision is directed against the order dated 11.07.2016 (Annexure P-1) passed by the learned Additional Sessions Judge, Kurukshetra, whereby an application moved by the petitioner for dropping prosecution on the ground that the order granting sanction of prosecution is defective has been dismissed.

Suffice it to notice that the process of law was set in motion on the basis of a complaint moved by Baliyar Singh son of Harbhajan Singh that he has been supplying milk after collecting the same from villages to milk plant, Kurukshetra. It was asserted by the complainant that the Manager i.e. the present petitioner has not been releasing the requisite sum of money calculated as per kilometers and on having approached him, a demand of illegal gratification of Rs.10,000/- was raised and a deal was struck at Rs.5000/- per month as bribe.

Learned Counsel appearing for the petitioner has argued that the sanction to prosecute the petitioner has been granted by the Chief Executive Officer of the Kurukshetra-Karnal Cooperative Milk Producers Union Limited, Kurukshetra and who was not competent as he is not the appointing or removing authority of the petitioner. It is contended that as per relevant rules and regulations, the Personnel Committee was competent to appoint and remove the petitioner and as such, it is only such Committee which had the competence to grant sanction for prosecution. Another limb of the argument raised is that no order of delegation in favour of Chief Executive Officer had been brought on record and as such, the sanction for prosecution lacked inherent jurisdiction. Counsel has also argued that sanction for prosecution is defective inasmuch as the same suffers from the vice of non application of mind and has been issued as per draft sent by the State Vigilance Bureau, Ambala and after getting approval from the Legal Advisor, Milk Union, Kurukshetra-Karnal.

Having heard counsel for the petitioner at length and having perused the pleadings on record, I am of the considered view that the present revision lacks merit and deserves dismissal.

Perusal of the impugned order dated 11.07.2016 at Annexure P-1 clearly reveals that there is a reference to the proceedings of the 36th Personnel Committee meeting of the Union held on 29.09.2015 and such Committee comprised of the Suminder Singh, Chairmain, Milk Union, Kurukshetra-Karnal, Ashotosh Rajan, HCS, Chief Admn. Officer, HDDCF, Panchkula, Amolak Singh, Director, Milk Union, Kurukshetra-Karnal and S.S. Kohli, Chief Executive Officer, Milk Union, Kurukshetra-Karnal. The decision to grant sanction was taken in such meeting.

The order granting sanction dated 07.10.2015 (Annexure P-3)

undoubtedly bear the signatures of the Chief Executive Officer but the same would not be construed as it is the Chief Executive Officer which has granted sanction. The order dated 07.10.2015 under the signatures of the Chief Executive Officer merely conveys the decision for grant of sanction at the hands of the Personnel Committee which even as per case of the petitioner was the competent authority.

The draft sent by the Vigilance Bureau after getting approval from the Legal Advisor, Milk Union, Kurukshetra-Karnal was certainly before the members of the Personnel Committee during the deliberations held in its meeting on 29.09.2015. The draft as well as FIR, statement of witnesses and other relevant documents were before the Committee. There would be no basis for this Court to conclude that the Personnel Committee in its meeting held on 29.09.2015 has not deliberated on the issue after having examining all the relevant material. Accordingly, for the reason that a draft had been sent by the Vigilance Bureau, Ambala after approval from the Legal Advisor, Milk Union, Kurukshetra-Karnal cannot reflect non application of mind at the hands of the Personnel Committee.

For the reasons recorded above, this Court does not find any infirmity in the impugned order dated 11.07.2016 (Annexure P-1) declining the application moved by the petitioner for dropping of prosecution.

Revision is dismissed.

Needless to observe that it would be open for the petitioner to raise all pleas in his defence in accordance with law and before the trial Court.

22.02.2017

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

i) Whether speaking/reasoned? Yes

ii) Whether reportable? Yes