

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.12573 of 2013
Date of decision:08.02.2017

Pawan Kumar and another ... Petitioners

Vs.

State of Haryana and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Gaurav Deep Goel, Advocate
for the petitioners.

Mr. Sandeep Singh Mann, Sr. DAG, Haryana.

AMIT RAWAL J. (Oral)

The petitioners have sought the following relief:-

“Civil Writ Petition under Article 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to give compensation of Rs.15 lacs on account of mental agony and harassment suffered by petitioner and his family on account of failure of birth control operation undergone by the petitioner no.2 and to give monthly/yearly financial assistance to the petitioners to upbringing the child;

Further, directions be issued to respondents to initiate departmental and criminal action against respondent no.4 for negligence.

AND/OR

Any other order, writ or direction which this Hon'ble Court may deem fit in the facts and circumstances of the case.”

For claiming damages, in my view, remedy for the petitioners is to file a civil suit. It is yet to be proved, whether the operation was successful or not. Even perusal of document (Annexure P-2) reveals that sometimes the operations are not successful. Since the writ petition involves the disputed question of fact and law which can only be adjudicated by leading direct and cogent evidence. In my view, this Court cannot undertake the task of determining the compensation/damages. The petitioners are at liberty to file a civil suit. The time spent in this Court will be condoned by invoking the provisions of Section 14 of Limitation Act, in case the aforementioned remedy is availed.

Accordingly, the writ petition stands disposed of.

(AMIT RAWAL)
JUDGE

February 08, 2017
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No