

Gurbax Singh
2017.10.12 10:32

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

**CWP No. 13155 of 2015
Decided on : 26.09.2017**

Sat Narain Yadav

... Petitioner

Versus

The State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL**

PRESENT: Mr. Aditya Yadav, Advocate
for the petitioner.

Mr. Sandeep Moudgil, Addl. AG, Haryana.

Ajay Kumar Mittal, J.

1. The petitioner in this writ petition filed under Articles 226/227 of the Constitution of India, prays for a writ in the nature of *mandamus* directing the respondents to enforce the Haryana Police Rules, 2011 made under the Haryana Police Act, 2007.

2. A few facts relevant for decision of the controversy involved as narrated in the petition may be noticed. The petitioner is a permanent resident of State of Haryana. He asserts that the Haryana Police Act, 2007 (in short '2007 Act') was framed in the year 2007 and the Haryana Police Rules, 2011 (for brevity '2011 Rules') have already been drafted and sent to the Government for approval vide letter dated 19.07.2011, which is pending consideration since 2011. Till today, the old Punjab Police Rules 1934 are in existence. According to the petitioner, as per the old Punjab Police Rules, 1934 (in short '1934 Rules'), the Inspector General of Police is Head of the Department and all powers vest in him, whereas, for the last more than 15

years, Director General of Police is the Head of the Department. In 1934 Rules, the Head of the Department is Inspector General of Police. As per Rule 16.32 of the 1934 Rules, power of the Inspector General of Police is to hear the revision/mercy appeal, whereas, in fact this power vests in the Director General of Police, Haryana. The petitioner sent a justice demand notice to the respondents. In response thereto, the Director General of Police, Haryana submitted his reply on 04.03.2015 stating that the 2011 Rules had been drafted in the year 2011 and sent to the Government for approval vide letter dated 19.07.2011 and the same are pending for approval. Hence, the instant petition by the petitioner in the form of Public Interest Litigation (PIL) with the prayer as mentioned above.

3. A written statement has been filed on behalf of respondents No.1 to 3, wherein, it has been categorically stated that Section 96(4) of the 2007 Act makes it clear that the Punjab Police Rules framed under the Police Act, 1861 as applicable to the State of Haryana, shall be deemed to have been framed under this Act till the framing of new Rules under this Act. The relevant para i.e. para 5 of the written statement reads as under:-

“5. That otherwise also the action cannot be stated as arbitrary and discriminatory as alleged for the reason that section 96 (4) of the Haryana Police Act, 2007 makes it clear that the Punjab Police Rules framed under the Police Act, 1861, as applicable to the State of Haryana, shall be deemed to have been framed under this Act till new rules are framed under this Act. Section 96 (4) of the Haryana Police Act, 2007 is reproduced below for ready reference of this Hon'ble

Court:-

'Section 96 (4) the Punjab Police Rules framed under the Police Act, 1861 (Act 5 of 1861), as applicable to the State of Haryana, shall be deemed to have been framed under this Act till new rules are framed under this Act'."

4. We have heard learned counsel for the parties.
5. After perusing the averments made in the petition and the categorical stand taken by the respondents in the written statement to the effect that Section 96 (4) of the 2007 Act makes it clear that the Punjab Police Rules framed under the Police Act, 1861 as applicable to the State of Haryana shall be deemed to have been framed under this Act till new Rules are framed under this Act, we do not find any ground to entertain this Public Interest Litigation in writ jurisdiction under Articles 226/227 of the Constitution of India. Consequently, finding no merit in the petition, the same is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

September 26, 2017
'gs'

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No