

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

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Civil Writ Petition No.11035 of 2017
Date of Decision: May 22nd, 2017

Dinesh Jyoti and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Ms. Rajni Bala, Advocate
for Mr. R.K. Arora, Advocate
for the petitioners.

Mr. Anant Kataria, Deputy Advocate General, Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

On 19.05.2017, following order was passed by this Court:-

“It is the contention of the learned counsel for the petitioners that the petitioners were promoted vide order dated 30.12.2016 (Annexure P-4), which has been given effect to and they were promoted to the posts of Secretary. Now without giving any notice or opportunity of hearing, the said order has been withdrawn vide order dated 08.05.2017 (Annexure P-6) violating the principles of natural justice.

Notice of motion.

On the asking of the Court, Mr. Surjeet Singh Chaudhary, Deputy Advocate General, Punjab, accepts notice on behalf of the respondents. Three copies of the writ petition be handed over to the counsel for the State during the course of the day. He shall seek instructions with regard to the assertion of the counsel for the petitioners as has been recorded above.

List on 22.05.2017, for consideration.

To be shown in the urgent list.

*Copy of the order be given **dasti** to the counsel for the State under the signatures of the Bench Secretary of this Court.”*

Learned Deputy Advocate General, Punjab, on instructions

from Manjit Singh, Superintendent, Local Government-I Branch, Department of Local Government, Punjab, states that prior to the passing of the impugned order dated 08.05.2017 (Annexure P-6), no notice was issued to the petitioners nor any personal hearing was given to them. He, however, asserts that since the promotion of the petitioners was not in consonance with the statutory Rules and Instructions issued by the Government as applicable, the said order has been passed by the competent authority. He further asserts that the initial promotion of the petitioners was *ad hoc* and, therefore, they do not have any right.

The contention of learned counsel for the respondents that the promotion of the petitioners was *ad hoc*, even if accepted, would not make much of a difference as after passing of the order of promotion as Secretary on 30.12.2016, the petitioners have joined the said post and had been working as such and even drawing the salary thereof. That apart, there being violation of the basic principle of law that a person has to be given an opportunity of being heard prior to any order being passed which would adversely affect his rights, the order passed by the respondents cannot sustain.

Learned counsel for the respondents has also brought to the notice of the Court that *CWP No.19933 of 2016* titled as *Surinder Pal Singh Versus State of Punjab and others* is pending before a Division Bench of this Court, where one of the aggrieved persons as the petitioners, namely, Surinder Pal has filed an application for staying the order dated 08.05.2017, in which notice has been issued for 12.07.2017. This would also not make any difference as it is an admitted fact that prior to passing of the

impugned order, no personal hearing has been given to the petitioners.

In view of the above, the impugned order dated 08.05.2017 (Annexure P-6) is quashed qua the petitioners only.

It is further clarified that respondents may pass a fresh order after giving opportunity of hearing to the petitioners in accordance with law.

May 22nd, 2017
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No