

232 (3cases)

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

CWP No.14115 of 2017(O&M)

Date of Decision:11.12.2017

Rajeev and othersPetitioners

Vs.

State of Haryana and othersRespondents

2. CWP No.6979 of 2017

Sandeep Kumar and othersPetitioners

Vs.

State of Haryana and anotherRespondents

3. CWP No.14382 of 2017

Surender Kumar and othersPetitioners

Vs.

State of Haryana and anotherRespondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.Sunil Kumar Nehra, Advocate,
for the petitioners (in CWP No.14115 of 2017)

Mr.Mukesh Yadav, Advocate,
for the petitioners (in CWP-6979-2017)

Mr.Amandeep Singh, Advocate,
for the petitioners (in CWP-14382-2017)

Mr. Hitesh Pandit, Addl. A.G., Haryana.

Mr.Kanwal Goyal, Advocate,
for respondent-Commission.

Mr.Mandeep Singh, Advocate, for
Mr.R.K.Malik, Sr.Advocate,
for respondents no..49, 61, 84, 106, 113, 118, 134, 135, 233,
253, 265,267, 278, 287, 309, 316, 335, 348, 352.

AMOL RATTAN SINGH, J. (Oral)

Pursuant to the previous orders, an additional affidavit of Sh.

Manbir Singh, IPS, Deputy Commissioner of Police, Panchkula, has been

filed in Court today by the learned State Counsel, who further submits that

as a matter of fact FIR No.502, dated 12.09.2017, has been registered against the candidate who was caught cheating, i.e. Sandeep Kumar, alleging therein the commission of offences punishable under Sections 186 and 420 IPC. It is also stated that upon summoning the accused, he came to join investigation and produced a mobile phone, the location of which was not found to be in the area of Panchkula on the date that the examination took place.

Learned State counsel, on instructions submits that the IMEI number of the phone showed that it was infact not being used at all during that period in the area concerned and therefore, obviously the aforesaid who person was apprehended with the phone in his hand during the time of examination, had surrendered a different phone to the one he was using on the date of the examination.

Upon Mr. Nehra, learned counsel for the petitioners, raising a query as to whether statements of the Invigilator and the Principal of the school where the examination was conducted had been obtained under Section 161 Cr.P.C.by the investigating agency, learned State counsel, again on instructions from the I.O. who is stated to be present in Court, submits that statements of both these persons were recorded, and as regards the statement of the Principal, she has specifically stated that on the phone caught on the person of the aforesaid Sandeep, on the date in question, he was seen to have sent a "Whatsapp" message to someone, containing a photograph of the question paper.

Though Mr.Nehra insists that the aforesaid statement itself

would warrant investigation by the CBI, I cannot agree with that contention, simply on the basis that one person caught cheating on a particular examination, (of course pertaining to a selection process), was accused of having sent a message to someone else, showing therein the question paper, with the matter still under investigation with the District Police, Panchkula.

Consequently, this petition is disposed of with a direction to the Deputy Commissioner of Police, Panchkula, to ensure that even if the matter has to be referred to the Cyber Crime Cell of the police, with regard to trying to retrieve the message stated to have been sent out by the accused, containing the photograph of the examination paper, proper efforts be made first to retrieve the phone, as also for arresting the accused, who is stated to be missing so far.

The investigation shall be conducted under the supervision of a gazetted officer, eventually to be also monitored by the Deputy Commissioner of Panchkula itself.

Any person aggrieved of improper investigation would be at liberty to take appropriate remedies against the accused and the investigating agency.

A photocopy of this order be placed on the files of the connected cases.

December 11, 2017

dharamvir

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO