

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

CWP No. 14137 of 2017
Date of decision : 5.7.2017

Harbinder Singh BaidwanPetitioner

v.

State of Punjab and othersRespondents

CORAM : HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE DR. SHEKHER DHAWAN

Present : Mr. H.S. Baidwan- petitioner in person.

S.S. Saron, J.

The petitioner by way of the present petition, filed under Articles 226/227 of the Constitution of India, seeks a mandamus for directing the Director, Vigilance Bureau, Punjab (respondent No.3) to investigate and register FIR against respondent No. 4. A further direction has been sought against said respondent No.3 to investigate the matter immediately to eradicate corruption on war footing.

According to the petitioner, respondent No.4 was appointed as Registrar of Punjab Nurses Registration Council ('PNRC' - for short) (respondent No. 2). She served the said office from 27.5.2013 to 13.11.2014. During her tenure as Registrar, PNRC, she was charge sheeted for serious lapses wherein she had surpassed all departmental rules and made students of K.D. College of Nursing, Hoshiarpur appear in the examinations without admission forms and examination fee. Not only this, she bypassed the total Examination Branch of PNRC (respondent No.2) including the Assistants and Superintendents. Further, she declared their results and the senior officers,

who enquired into the matter, connived with her and found her to be only a little negligent and thereby, as a punishment only one yearly increment of pay was stopped. It is submitted that the allegations against respondent No.4 are serious which need to be enquired into by the Director, Vigilance Bureau, Punjab (respondent No.3).

We have given our thoughtful consideration to the matter.

The petitioner primarily seeks that an investigation be conducted after registration of an FIR in the case. In this regard it is to be noticed that Hon'ble the Supreme Court in Sakiri Vasu v. State of UP and others, 2008 (1) RCR (Criminal) 392, *inter alia*, held that in case the police of concerned police station is not registering an FIR in terms of Section 154 of the Code of Criminal Procedure (for short 'Cr.P.C.'), the first remedy available to the complainant is to approach the concerned Superintendent of Police under Section 154 (3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. and if despite approaching the Superintendent of Police or the other officer referred to in Section 36 Cr.P.C., his grievance still persists, then he can approach the Magistrate under Section 156 (3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C., besides, he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C.

Therefore, a writ petition or a petition under section 482 Cr.P.C. is not normally to be entertained when there are other alternative remedies available.

The petitioner has not shown that he has approached the concerned police station for registration of a case, which he may, if so advised, do so.

The High Court in exercise of its writ jurisdiction under Articles 226/227 of the Constitution and even in exercise of its inherent jurisdiction under Section 482 Cr.P.C, is not normally to order registration of an FIR as it may even lead to oppression for a litigant, who may be affected by such an order. Besides, once an order is passed for registration of an FIR, the High Court may not be in a position to have a control over the outcome of the complaint, which may even entail evil consequences, insofar as the accused is concerned.

Therefore, in the facts and circumstances, the petitioner may, if so advised, in the first instance approach the concerned police station. However, a direction for registration of a case/FIR would not be proper.

The petition is, accordingly, dismissed leaving it open for the petitioner to avail other remedies in accordance with law.

(S.S. SARON)
JUDGE

(SHEKHER DHAWAN)
JUDGE

5.7.2017
Ashwani

Speaking/Reasoned
Reportable

Yes/No
Yes/No