

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.23641 of 2016 (O&M)

Date of Decision: 10.03.2017

Jaskaran Grewal

... Petitioner

VS.

Union of India & Ors.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE A.B. CHAUDHARI**

Present: Mr. Sachit Kumar Sehajpal, Advocate for the petitioner

SURYA KANT, J. (Oral)

(1) In this writ petition, purportedly filed in public interest, the petitioner has prayed for the following reliefs:-

- A. *“Issue an appropriate writ of Certiorari or any other writ, direction or order quashing the order dated 01.07.2016 (Annexure P-3) passed by the respondent Nos.2 and 3 transferring the investigation in ECIR/CDZO/05/2013, dated 25.03.2013 from Chandigarh Office to Headquarters Investigation Unit, ED, New Delhi.*
- B. *Issue an appropriate writ of Prohibition or any other writ, direction or order staying the operation of the impugned order dated 01.07.2016 (Annexure P-3) passed by the Respondent Nos.2 and 3 transferring the investigation in ECIR/CDZO/05/2013, dated 25.03.2013 to Headquarters Investigation Unit, ED, New Delhi, pending the decision of the present writ petition.*
- C. *Issue an appropriate writ of mandamus or any other writ, direction or order directing that the investigation in ECIR/CDZO/05/2013, dated 25.03.2013 be monitored by this Hon'ble Court as highly influential persons including the Assistant Solicitor General of India, Chetan Mittal and other influential persons have been named as suspects in*

the case which otherwise shall result in miscarriage of justice, immense loss of State Exchequer and loss of public faith.

- D. Issue an appropriate writ of mandamus or any other writ, direction or order for Shri Suresh Kumar Batra, Asst. Legal Advisor, Chandigarh Regional Office and Shri Gopesh Byadwal, Investigating Officer, Assistant Director in ECIR/CDZO/05/2013, dated 25.03.2013 under PMLA 2002 associated with the investigation since its inception in March 2013 to continue as such until conclusion of the investigation and trial proceedings in all related matters pertains to the instant case.*
- E. Issue an appropriate writ of prohibition or any other writ, direction or order directing respondent No.2 and 3 not to disassociate or remove any official/officer connected with this case since its inception and responsible for the case, for last more than 3 years without the leave of this Hon'ble Court.*
- F. Summon the records of this case from the respondents especially the record of the investigation on the basis which custodial interrogation of main accused Mukesh Mittal has been sought by the investigating officer”*

(2) The petitioner had earlier also filed public interest litigation bearing CWP No.17460 of 2015 in which directions were sought for completion of investigation in a time bound manner under the supervision of this Court besides questioning the orders of transfer of some of the officers who had been assigned the responsibility of investigation. The said writ petition was disposed of by this Court on 21.04.2016 with the following directions:-

“[9] As regard to prayer No.'A', for time bound investigation in the matter, it goes without saying that every investigation or enquiry should be conducted within a reasonable time in the larger public interest. Nevertheless, this Court cannot be oblivious of the fact that some times the outer-limits set out for concluding a probe can unwittingly scuttle the ongoing investigation and prompts the prosecution to submit a half-baked report, contrary to the object, spirit and import of the judicial command. We, therefore, at this stage direct the authorities concerned, through the learned Additional Solicitor General of India, to conclude the ongoing investigation within a fairly reasonable period and take the matter to its logical conclusion.

[11] Adverting to the prayer-'B', we have no material on record or a valid reason to doubt the competence or integrity of the Investigating Agency, hence, no monitoring by this Court is required, moreso when the very foundation of the petitioners' apprehension no longer exists.

[12] This Court reiterates its faith and trust in the respondent-authorities that they would act in a fair, impartial and un-biased manner and conclude the ongoing investigation/inquiry within a reasonable period...”

(3) Soon after the above-reproduced directions were issued, the Directorate of Enforcement filed a report in the Court of District & Sessions Judge, Chandigarh (P2) in May, 2016 wherein the credibility of the

investigation carried out by the CBI/Police authorities was doubted and the learned Sessions Court was requested to direct re-investigation of the case and submit the supplementary challan.

(4) Thereafter vide the impugned communication dated 01.07.2016 (P3), the ongoing investigation which was being separately carried out by the Enforcement Directorate in relation to the allegations of money laundering has been transferred from Chandigarh Zonal Office to “Headquarters Investigation Unit” at Delhi. It is in this backdrop that the petitioner has through this second public interest litigation, questioned the transfer of investigation from Chandigarh to Delhi and has further sought the directions reproduced in the opening para of this order.

(5) We have heard learned counsel for the petitioner at a considerable length and gone through the record with his assistance.

(6) As regard to the order dated 01.07.2016 transferring investigation is concerned, it is undeniable that the said order was challenged by one Amrik Singh, who is complainant in one of the connected cases, before this Court in CWP No.16196 of 2016 and his writ petition has been dismissed by a Coordinate Bench on 24.09.2016 upholding the order of transfer of investigation.

(7) We are thus of the considered view that the same issue cannot be allowed to be re-agitated by way of public interest litigation only because the petitioner has taken a new ground that the order of transfer of investigation suffers from ‘perversity’.

(8) So far as the monitoring of investigation by this Court is concerned, such a prayer was not accepted by this Court in the earlier PIL decided on 21.04.2016. In any case, once the investigation has been transferred

to Headquarters Investigation Unit at New Delhi, this Court would otherwise be reluctant to entertain such prayer.

(9) For the reasons afore-stated, no effective relief can be granted to the petitioner in this case except to reiterate that in the event of any violation of the direction dated 21.04.2016, he shall be at liberty to have recourse to the appropriate remedy in accordance with law.

(10) With liberty aforementioned, the writ petition stands dismissed.

(Surya Kant)
Judge

10.03.2017
vishal shonkar

(A.B. Chaudhari)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No