

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.25268 of 2016
Date of Decision.19.12.2017

Raj Kumar

.....Petitioner

Vs

State of Haryana and others

.....Respondents

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

Present: Mr. B.S. Dhillon, Advocate
for the petitioner.

Ms. Mamta Singla Talwar, AAG, Haryana.

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AMIT RAWAL J.

The petitioner, alleging to be resident of Ram Kundi Chowk Babain Road, Ladwa has sought redressal of grievance of public at large by invoking the extraordinary jurisdiction of this Court under Article 226/227 of the Constitution of India claiming following relief:-

“Civil writ petition under Article 226/227 of Constitution of India for issuance of a writ in the nature of mandamus for directing the respondents No.1 and 2 to recover the amount of Rs.6,93,37,000/- with interest from the respondents no.4 to 11 in view of terms & conditions no.2(j) of sanction orders (Annex.P/3) which was disbursed to them by respondent No.2 under the discretionary grants received from the representatives of government for the benefit of community during the year of 2014-2015, which has not been utilized for the purpose for which it was disbursed and even, no any proper record has been maintained by the respondents No.4 to 11 being responsible Executing Agencies and failed to justify the whereabouts of the public money disbursed to them, due to which the Government of Haryana has suffered huge financial loss and even, the development of villages also affected badly, due to which human rights has been violated.

OR

Any other appropriate writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be issued."

Mr. B.S. Dhillon, learned counsel appearing on behalf of the petitioner submitted that a sum of ₹6,93,37,000/- being public money was disbursed to respondent No.4 to 11 i.e. Sub Divisional Officer (Civil), Thanesar, Pehowa, Shahabad and Block Development and Panchayat Officer, Thanesar, Pehowa, Ismailabad, Shahabad and Babain, District Kurukshetra respectively, under the discretionary grants received from the representatives of Government for the benefit of community during the year 2014-15 but the same had not been utilized for the purpose for which it was disbursed.

On 22.11.2013 (Annexure P-2), the Haryana Government in view of the Haryana Discretionary Grants (Regulations of Expenditure) Rules, 1969 and the policy framed thereunder, sanctioned 184 discretionary grants of ₹6,93,37,000/- to District Kurukshetra on Division level for the year 2014-15, for the following schemes:-

- “(a) Drinking Water Supply Scheme*
- (b) Permanent works for improvement of Agriculture.*
- (c) Permanent works for improvement of Rural Sanitation.*
- (d) Village Roads including small bridges and culverts.*
- (e) Improvement of schools or dispensary buildings where such institutions already exist and are inadequately housed*
- (f) Library Books.*
- (g) Allocation to Panchayats for works connected with Panchayats.*
- (h) Uniforms to be supplied to poor school children.*
- (i) Grants to Panchayats for extension of school buildings.*
- (j) Bar Association/judicial complexes (Library, furniture, **Const. of shed/building** etc. in public interest litigation)*
- (k) Education Societies.*
- (l) Community /Social Forum/Societies/Institutions (Like Dharamshalas).*
- (m) Cultural Organization & their activities.*
- (n) Freedom Fighter/Shahid Memorials*
- (o) Sport Associations.*
- (p) Media Associations/Press Clubs.*
- (q) Environmental Protection Societies.*

(r) Individuals who deserve assistance from public funds.”

Respondent Nos.4 to 11 did not follow the terms and conditions of the policy as well as the sanction orders passed by respondent No.2 i.e. Deputy Commissioner, Kurukshetra by not submitting the utilization certificate.

One of the order dated 16.03.2015 granting sanction has been attached as Annexure P-3, which contained the terms and conditions to be strictly adhered to. All the aforementioned respondents did not comply with condition No.2 (j) of the aforementioned grant, which fact is evident from a perusal of the letter dated 24.04.2015 written by Deputy Commissioner, Kurukshetra to Accountant General, Haryana whereby only four utilization certificates for an amount of ₹28,60,000/- had been received from Block Development & Panchayat Officer, Ismailabad. The reply of the respondents filed in the present writ petition showing the utilization of money is for a subsequent period whereas the grant sanctioned was only for the year 2014-15, therefore, money at the hands of the aforementioned respondents had been squandered/embezzled.

It was further argued that as per terms and conditions of Discretionary Grants Sanction orders, the physical verification report of the work done under grants, photographs of the work done, utilization certificates and copy of bills have not been supplied, despite the information sought under the Right to Information Act. The report dated 24.04.2015 (Annexure P-11) of respondent No.2-Deputy Commissioner, Kurukshetra revealed that total 184 Discretionary Grants of ₹6,93,37,000/- were received from the office of Principal Secretary, Development and Panchayat Department, Haryana-respondent No.1 but only 4 utilization certificates

of Discretionary Grants of ₹28,60,000/- had been received from the BDPO, Ismailabad, respondent No.9. Respondent No.2 did not follow the provisions to ensure the proper utilization of grant or maintaining proper accounts as per audit procedure and following irregularities have been noticed due to non-performance of the duty:-

- (i) Non submission of utilization certificates.
- (ii) Non maintenance of records of the grants.

Accordingly, it was urged that the writ petition be allowed in terms of the prayer *ibid*.

On the contrary, learned State counsel made reference to the written statement of respondent No.2-Deputy Commissioner, Kurukshetra on behalf of respondent Nos.1 to 11 wherein in paragraph 6, it has been stated that out of total sanctioned amount of ₹6,93,37,000/-, an amount of ₹6,71,60,890/- had been accounted for on the basis of the utilization certificates and an amount of ₹12,69,973/- had been refunded by the executive agencies whereas utilization certificates for works amounting to ₹9,06,137/- is pending adjudication. The relevant paragraph No.6 of the written statement reads thus:-

“6. That as and when it came to the notice of the answering respondent about the allegations levelled in the petition, immediately thereafter, a meeting of all officers, who have executed the work, was called on 10.01.2017 vide letter No.6853-60/Dev dated 06.01.2017. All the concerned officers, to whom the grants were released for execution of works, came present in the meeting held on 10.01.2017. That all concerned officers submitted about the status of works and grants released to them for execution as per sanction. These officers ensured the answering respondent that there is neither any embezzlement nor any misappropriation of grant has caused. All the amounts released to them have been spent on the works, for which it was sanctioned or released. (The copy of the

proceeding of the meeting held on 10.01.2017 is attached herewith as Annexure R-1). The answering respondent strictly directed all the offices, who have executed the works but did not submitted the utilisation certificates of the grant/amount released to them, to submit the same at once, without any further delay. Accordingly, 181 utilisation certificates have already been submitted by the officers concerned. Only four work's utilization certificates are pending yet to be submitted because these works are under progress.

7. That further, it is pertinent to submit before this Hon'ble High Court that the answering respondent had constituted a committee under the chairmanship of Additional Deputy Commissioner Kurukshetra consisting therein two members i.e. District Revenue Officer and Executive Engineer (Panchayati Raj) Kurukshetra, vide letter Endst. No.7383-85/Dev dated 18.01.2017, to get enquired into the allegations levelled in the present petition. The aforesaid committee of three district level officers have submitted its report, vide letter No.8060 dated 31.01.2017. (The three translated copy of the report is attached herewith as Annexure R4). The table recorded in the report of the committee is reproduced as under:-

<i>Total Discret Grant sanct</i>	<i>Receive d UCs</i>	<i>Pendin g UCs</i>	<i>Total sanctioned amount (Rs)</i>	<i>Amount of UCs received (Rs)</i>	<i>Amount refunded by Executive Agencies</i>	<i>Pending UCs/refund not received (Rs)</i>
<i>185</i>	<i>181</i>	<i>4</i>	<i>6,93,37,000</i>	<i>6,71,60,890</i>	<i>12,69,973</i>	<i>9,06,137</i>

The committee has submitted in its report that out of total 185 works, the utilisation certificates of 181 works have been received and out of total amount Rs.69337000/-, amount to Rs.67160890/- utilisation certificates have been received. Amounting to Rs.1269973/- have been refunded being unspent i.e. balance after completion of work.

(i) Further it has been submitted by the committee in its report that the utilisation certificates for works amounting to Rs.906137/- is still pending. On the utilisation certificates of four weeks are not received from the executive agencies, of which work is in progress.

The committee has submitted that it would be appropriate to say with regard to physical monitoring that the utilisation certificates have been submitted by the executing agencies only after physical verification.”

We have heard learned counsel for the parties and appraised the paper book. It would be apt to reproduce clause 2 (j) of Annexure P-3 i.e. the terms and conditions of the Discretionary Grants in the year 2014:-

“2(j). That in case of breach of any of the terms and conditions specified above the beneficiary an Executing Agency shall be liable to refund the amount of grant along with interest there-on, individually or jointly.”

A conjoint reading of the aforementioned provisions reveals that in case the amount disbursed is not utilized, it shall be refunded along with the interest thereon, individually or jointly. However, in view of the reply extracted above, it could not be concluded that the amount has been squandered/embezzled as has been set up, projected and emphatically argued by the petitioner. The concerned departments have already submitted the utilization certificates and only work of paltry amount *viz-a-viz* the utilization certificate is awaited.

The reply of the respondents is self-explanatory and does not require any further elaboration on our part, accordingly, in our view the grievance sought to be raised by the petitioner does not survive any more. Resultantly, the writ petition is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

December 19, 2017

Pankaj*

Whether speaking/reasoned

Yes

Whether reportable

Yes