

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

**C.W.P. No.404 of 2013
Date of Decision:25.07.2017**

Shiv Kumar Gupta Petitioner

Vs.

State of Haryana and others Respondents

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Shiv Kumar Gupta, petitioner in person.

Ms. Tanisha Peshawaria, DAG, Haryana.

Mr. Raman B. Garg, Advocate for respondent No.2.

Rakesh Kumar Jain, J. (Oral)

The petitioner was allegedly fell in an open manhole, maintained by the Municipal Committee, Jagadhri, Yamunanagar. He filed an application before the District Consumer Disputes Redressal Forum, Yamunanagar for seeking compensation. The said application was allowed initially. The Municipal Committee challenged that order before the State Commission. The appeal was allowed and the matter was remanded back to the Forum again and the Forum dismissed the petition on 08.10.2012. Thereafter, the petitioner chose to file a PIL for seeking a direction to the State of Haryana for covering all the open manholes. That PIL, however, was dismissed for non-prosecution and on the ground that it was not a PIL because the petitioner was not prosecuting that petition as pro-bono but liberty was granted to him to file a separate petition because he was having a personal interest. The present petition has been filed in which again the petitioner has sought direction that the manholes in the State of Haryana be

covered. It is also submitted that so far the petitioner had not been granted any compensation for the injury and trauma, he had suffered because of the negligence of the Municipal Committee, Jagadhari.

Counsel for the respondent- Municipal Committee has submitted that the issue with regard to the fact that as to whether the petitioner had actually suffered the injury, by falling in the manhole is a pure question of fact which has to be decided after leading evidence and for that matter, the petitioner may approach Civil Court.

I have heard learned counsel for the parties and on perusal of the record, am of the considered opinion that it would be just and expedient and in the interest of the petitioner to file a civil suit for compensation within a period of one month in case he has actually suffered the injury and trauma as stated.

The petition is disposed of with the aforesaid liberty.

July 25, 2017
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(RAKESH KUMAR JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No