

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

-:-

C.W.P No. 22869 of 2017
Date of decision: 06.10.2017

Virender Singh & Ors.

...Petitioners

Vs.

State of Haryana & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Girish Agnohotri, Sr. Advocate, with
Ms. Seema, Advocate, for the petitioner.

Mr. Deepak Manchanda, Advocate, for the respondent.

G.S.SANDHAWALIA, J. (Oral).

Petitioners seek quashing of the show cause notices dated 12/19/20.09.2017 etc (Annexure P/8 colly) whereby the respondents are proposing to withdraw the one rank promotion under ORP policy. Since the writ petition is only directed against the show cause notices this Court was prima facie of the opinion that at this stage, the petitioners can always go back to the respondents and file a necessary reply upon which the respondents would take action.

However Senior counsel has pointed out from the paper-book that on receipt of the show case notice dated 20.09.2017 petitioner No.2 – SI Shyam Sunder @ Shyam Singh had also asked for certain documents on 23.09.2017 itself. Instead of supplying the documents, respondent No.5 Deputy Commissioner of Police, Gurgaon had asked the petitioner that documents can be applied under the Right to Information Act, 2005 (hereinafter referred to as the “RTI Act”) and the reply should be submitted to the show cause notice within stipulated period which was five days, vide

a reply dated 27.09.2017 (Annexure P/9 colly). It is further pointed out that the petitioners had again specified on 02.10.2017 that it takes 30 days to get the documents and therefore, proper reply cannot be submitted and they would submit the reply once the documents are received under the RTI Act. It is in such circumstances, this Court has been approached.

Notice of motion.

On the asking of Court, Ms. Shruti Jain Goyal, AAG, Haryana, who is present in Court, accepts notice on behalf of the respondents

The principle of natural justice is not mere empty formality, which has to be followed by the respondents. The first step is to issue show cause notice and the second is the reply and thereafter an order is to be passed. It is not in dispute that the petitioner was promoted way back on 22.08.2014 and a period of more than three years has expired since then. No tearing hurry as such would further the interest of justice and it would be the duty of the official respondents to supply the necessary documents which have been asked for so that the petitioners can send their replies accordingly. It would not only assist the official respondents also in deciding the issues in a more broad based manner rather than deciding by a pre-judged mind.

Resultantly, the directions are issued to the official respondent Nos. 5 and 6, Deputy Commissioner of Police of Gurgaon and Faridabad that the necessary documents which have been asked for or which the petitioners would ask for as demonstrated in case of petitioner No.2 be supplied to them in case the record is not bulky. The petitioners, if have not asked for, will within a period of one week from today ask for the necessary

documents which would be supplied to them within a period of ten days thereafter or provision would be made for inspection of the record. On the receipt of the said documents the petitioner's will, thereafter, file their replies by 6th November, 2017 to the show cause notices and on the basis of the replies received it will be open to the State to proceed against the show cause notices and pass appropriate orders by taking into consideration the defence of the petitioners.

With the above said observation the present writ petition is accordingly disposed of, with direction to keep the show cause notices pending till then.

October 06, 2017
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(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No