

**CWP No. 265 of 2016**

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

**CWP No. 265 of 2016**

**Date of Decision: 06.11.2017**

**EHC Balbir Singh**

**.....Petitioner**

**Vs.**

**State of Haryana and others**

**.....Respondents**

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present: Mr. Manish Soni, Advocate,  
for the petitioner.

Mr. R.K. Doon, A.A.G., Haryana.

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**AMOL RATTAN SINGH, J. (ORAL)**

By this petition, the petitioner seeks the quashing of an order dated 01.10.2015 (Annexure P-6), by which his services were placed under suspension, upon him having been arrested on 29.09.2015, pursuant to the earlier registration of FIR No. 23 dated 28.10.2009 against him, alleging therein the commission of offences punishable under Sections 379/411/120-B of the IPC and Section 13 (1) of the Prevention of Corruption Act, 1988.

Vide the impugned order, a regular departmental inquiry was also ordered to be instituted against the petitioner, which now actually is the bone of contention, in view of the fact that the petitioner has since superannuated from service since 30.04.2016 (as contended), but with the departmental proceedings still continuing.

It is the contention of learned counsel for the petitioner that departmental proceedings against him have been instituted in contravention to

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Rule 16.38 (1) of the Punjab Police Rules, 1934 (as applicable to the State of Haryana), no sanction having been obtained from the District Magistrate.

Similar matters pertaining to continuation of departmental proceedings having been initiated against police officials in the absence of sanction obtained from the District Magistrate, were disposed of by this Court on 11.07.2017, the 'main petition' being CWP No. 23246 of 2017.

Though this Court has opined that, as a matter of fact, sanction otherwise would seem to be necessary only if instead of judicial prosecution, departmental proceedings are initiated, as per the said provision, however a co-ordinate Bench having taken a different view in State of Haryana vs. Ex. HC Anant Ram 2015 (4) SCT 575, (as was also referred to by this Court (this Bench) in CWP No. 23246 of 2017, titled as Varender Kumar vs. State of Haryana and others), this Court had, instead of referring the matter to a larger Bench, directed that the departmental proceedings be kept in abeyance till sanction was obtained from the District Magistrate, with the Magistrate giving reasons for either granting or refusing such sanction.

Consequently, the same principle would otherwise apply to the case of the petitioner also, though, as already stated hereinabove, in the present case the petitioner has already retired w.e.f. 30.04.2016.

Thus, now if sanction is obtained from the District Magistrate, to continue with departmental proceedings against the petitioner, the proceedings thereafter be continued in terms of Rule 2.2 (b) of the Punjab Civil Services Rules Volume II (as applicable to the State of Haryana).

Till such sanction is obtained from the Magistrate, the departmental proceedings shall remain in abeyance.

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Learned counsel for the petitioner further submits that departmental proceedings should not be allowed to proceed during the pendency of the criminal proceedings, or alternatively, the common witnesses should not be examined in departmental proceedings till the pendency of the criminal case against him.

As regards the contention with regard to disciplinary proceedings continuing during the pendency of the criminal proceedings, it is well settled law that both proceedings can continue simultaneously; however, to ensure that the petitioner is not prejudiced in the criminal proceedings, it is further directed that till witnesses common to both the proceedings are duly examined by the trial Court, i.e. they have testified before the trial Court, they shall not be called upon to depose in the departmental proceedings.

If, of course, it is seen that the witnesses are deliberately not appearing in the criminal case just to delay even departmental proceedings, obviously, the respondents would be at liberty to take departmental action against such witnesses.

The petition is disposed of with the aforesaid directions.

**November 06, 2017**  
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**(AMOL RATTAN SINGH)**  
**JUDGE**

Whether speaking/reasoned

Yes

Whether Reportable

Yes