

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

CWP No. 29505 of 2017

Date of Decision: 21.12.2017

GURMEET SINGH MULTANI

..... Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

.....Respondents

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

Present: Mr. Pradeep Sharma, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (Oral)

The petitioner has challenged the order dated 14.09.2017 passed by the Commissioner, Punjab Right to Service Commission, Chandigarh, (herein after referred to as 'the Commission') constituted under the provisions of the Punjab Right to Service Act, 2011 (hereinafter referred to as 'the Act').

The petitioner is the PCS Officer who was posted as Additional District Magistrate(G)-cum-District Marriage Registrar, Jalandhar. The service was requested by the complainant, Amanpreet Kaur, in regard to solemnization of the marriage under the Special Marriage Act, 1954. Since, the services were not provided in terms of the Act, therefore, the matter was brought to the notice of the Commission who has passed the detailed order in which the following is the order pertaining to the petitioner: -

“Shri Gurmit Singh Multani, PCS, Additional District Magistrate-cum-District Marriage Registrar, Jalandhar (defendant) was present on 24.08.2017 and he has been given a patient hearing. He hasn't submitted anything either in writing or verbally.

However, he has submitted an affidavit dated 26.08.2017 received in the Commission vide diary No. 1898 dated 29.08.2017 and taken on record which has been discussed at length in the preceding paragraphs.

Interestingly, the defendant through his affidavit dated 26.08.2017 has himself proved that his affidavit furnished on 01.08.2017 is factually incorrect and hence false (elaborated in para 9 (c) supra). In view of the aforesaid facts, the proposed: -

- I. **Penalty of ₹ 5000/-** under section 17 (1)(h) of the Punjab Right to Service Act, 2011 for the delay of about 6 months in the delivery of service is hereby imposed on him.*

Deputy Commissioner Gurdaspur shall deduct the aforesaid penal amount of ₹ 5000/- from the salary of Sh. G.S. Multani, PCS, the then Additional District Magistrate (G) cum District Marriage Registrar Jalandhar for the month of September 2017 and deposit the same in account No. 134201000232 of the Commission with Sector 44-B Chandigarh branch of ICICI Bank under intimation to the Commission.

- II. **Recommendations** against him under Section 17 (1)(d) of the Act *ibid* for suitable departmental action for the delay of about 6 months in the delivery of service because of the lapses elaborated above except those of furnishing factually incorrect hence false affidavits are hereby confirmed to be made to the Punjab Government.*

- III. **So far as the proposed contemplation** for the Contempt proceedings under the Contempt of the Courts Act, 1971, in the appropriate Court of Law, for not coming to the Commission with clean hands, as he has intentionally furnished factually incorrect and false affidavits in spite of the fact that suitable opportunity was afforded to him as mentioned in para 6 and 7 supra but he has preferred to make the upright staff the scapegoat and give a clean chit to himself and the delinquent staff in the said affidavits, is concerned the same is converted into legal action in terms of Section 195 of the Code of Criminal Procedure, 1973 read with section 340 of the code *ibid* and further read with Section 199 of the IPC which is hereby ordered to be processed by the Under Secretary to the Commission.”*

Insofar as the penalty in clause (I) and (II) amounting to ₹5000/- imposed under Section 17(1)(h) of the Act and the recommendation made against the petitioner under Section 17(1)(d) are concerned, the petitioner has already made the representation but insofar as the clause (III) is concerned,

he has raised a serious contention to the effect that the Commission does not have the power to pass the order of contempt as it can only make recommendation to the Government which may be accepted or rejected in view of the Section 18 of the Act.

After hearing learned counsel for the petitioner and examining the available record, I am of the considered opinion that the petition at this stage is not maintainable insofar as the penalty under clause (I) and (II) is concerned because according to the petitioner, he has already filed a representation. However, in respect of clause (III), it is observed that the Commission has not yet made any recommendation and has passed an order to the Under Secretary of the Commission to process the matter pertaining to the alleged action to be taken against the petitioner in terms of Section 195 read with Section 340 of the Code of Criminal Procedure and 199 of the Indian Penal Code. Until and unless, any recommendation is made by the Commission or any adverse order is passed for the purpose of registration of the case against the petitioner, in terms of the aforesaid provisions of Indian Penal Code, the present petition is totally premature and no order is required to be passed at this stage.

With these observations, the present petition is hereby disposed of.

December 21, 2017

Ess Kay

**(RAKESH KUMAR JAIN)
JUDGE**

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