

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

(122)

**CWP-3872-2017**

**Decided on: February 28, 2017.**

**Jugraj Singh**

**.... Petitioner**

**Versus**

**State of Punjab and others**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI**

Present: Mr. K.B. Raheja, Advocate, for the petitioner.

**M.M.S. BEDI, J (ORAL)**

Petitioner appears to be a complainant against Dagdish Singh @ Jagdish Singh respondent No.5 in a criminal case bearing FIR No.13 dated 19.01.2005 under Section 420 IPC which has resulted in his conviction by the trial Court and the Appellate Court. A revision petition against the conviction order filed by respondent No.5 is admitted in the High Court as CRR-745-2012.

The petitioner, through instant writ petition, seeks a direction under Articles 226 and 227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the official respondents to take necessary disciplinary action against respondent No.5 in view of the **conviction** and sentence awarded against him in the above said FIR.

The petitioner had filed an application to the Superintending Engineer, Bhakhra Main Line Circle, Patiala for taking action against respondent No.5 which application has been dismissed vide order Annexure P-6.

Learned counsel for the petitioner has vehemently contended that it is wrongly observed in the said order that the High Court has granted

bail to respondent No.5 and punishment awarded to him, has been suspended and that his conviction also stands stayed. To highlight the said factual error, he has referred to the interim orders passed in CRR-745-2012 dated 19.02.2016 wherein the application for stay of conviction had been permitted to be withdrawn. In this background, the petitioner claims that on the basis of conviction order, the respondent-authorities are required to consider the request of the petitioner for initiation of departmental proceedings as envisaged in Rule 8 of the Punjab Civil Services (Punishment and Appeal), Rules 1970.

I have considered the contention of learned counsel for the petitioner and gone through the writ petition and order Annexure P-6.

The request of the petitioner has been declined vide Annexure P-6 on the two grounds:

- (i) the conviction and punishment against respondent No.5 has been stayed by the High Court;
- (ii) vide office letter No.49 dated 22.03.2012 in departmental proceedings against respondent No.5 under Rule 8 of the Regulation of 1970, it has been concluded that no loss had been caused to the department and the punishment has been awarded in a private case.

Taking into consideration the totality of the circumstances, even if, it is presumed that sentence has been suspended and conviction has not been stayed, still the circumstances do not warrant issuance of a writ in the nature of mandamus to the official respondents to launch disciplinary proceedings against respondent No.5 merely on the basis of **conviction** because it is the prerogative of the disciplinary authority to form an opinion

whether the conduct of a person warrants launching of disciplinary proceedings or not. The order of conviction simpliciter is not sufficient enough to launch departmental proceedings or to punish a public servant.

The departmental authorities have got a right even to dismiss or remove or reduce in rank, an employee on the basis of conduct which has led to his conviction and not on the basis of conviction simpliciter.

It will not be appropriate for this Court to express an opinion that in a prosecution started on the basis of complaint of the petitioner which has resulted in conviction, the circumstances would warrant the issuance of a direction for taking departmental action on the basis of conduct which has led to his conviction especially when the revision petition against the conviction is pending and the proceedings under Rule 8 of the above said Rules having already been taken and conduct having already been considered.

No ground is made out for issuance of a negative writ for taking action on the basis of conviction simpliciter during pendency of the revision petition.

The writ jurisdiction cannot be invoked by a citizen with sole objective to settle his personal scores with a private person.

The petition is dismissed.

**(M.M.S. BEDI)**  
**JUDGE**

**February 28, 2017**  
*harsha*

Whether speaking/reasoned:  
Whether reportable:

Yes/No  
Yes/No