

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP 598 of 2017

Date of Decision: January 16, 2017

Punjab Tourism Development Corporation Ltd. and another

.....Petitioners

Vs.

The Punjab State Commission for NRIs and another

.....Respondents

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

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Present:- Mr. Anil Kshetarpal, Sr. Advocate with
Mr. Saurabh Garg, Advocate for the petitioners.

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M.M.S. BEDI, J.

Punjab Tourism Development Corporation Ltd. through its Managing Director has questioned the legality of the order dated October 19, 2016, annexure P-17, passed by Chairman of the Punjab State Commission for NRIs.

By virtue of the said order, complaint of complainant Bharat Mittal of Faridabad, an NRI, claiming to be the representative of other NRIs, seeking refund of membership of US dollar 1100 per member paid by NRIs, has been allowed and a direction has been issued that complainant-respondent No.2 and all the other NRIs are entitled to refund of their amount

along with compensation/ interest from the Corporation. Recommendations has been issued by the Commission to the State of Punjab through Department of Punjab Tourism Development Corporation that **the complainant as well as other NRIs should be refunded their membership fee along with interest at the rate of 12% per annum from the date of deposit of the amount** as the petitioner Corporation has not been able to provide any benefit to 408 NRI members who had paid a sum of US \$ 1100 per member as membership fee. The grievance of the respondent- complainant was that the benefit of the Scheme has not been granted to respondent No.2 or any other NRI.

The impugned order has been challenged on two grounds i.e. (i) that the State Commission for NRIs has not any jurisdiction to adjudicate the matter as on earlier occasion a writ petition had been filed titled Kamal Kishore Vs. State of Punjab and others, CWP No. 9253 of 2005, decided on January 23, 2007 in which the prayer for sale of prime properties of Punjab Tourism situated at Goa, Jaipur, Mussourie, Manali and Dharamshala had been challenged but the process of global tenders adopted by the State of Punjab had been upheld; and second (ii) the petition had been filed by complainant- respondent No.2 for refund but an omnibus order has been passed directing that all the NRIs should be refunded their membership fee along with interest at the rate of 12% per annum from the date of deposit of the amount.

With the assistance of counsel for the petitioner, I have gone through the provisions of Punjab State Commission for Non-Resident Indians Act, 2011, which was enacted to provide for the constitution of a Commission for Non-Resident Indians with a view to protecting and safeguarding the interests of the Non-resident Indians in the State of Punjab, and to recommend remedial measures for their welfare and for the matters connected therewith or incidental thereto. The power and functions of the Commission as per Section 12 of the Act are investigation of any matter under the Act with all powers of a civil court trying a suit and, in particular, in respect of the matters, namely, summoning, discovery and production of documents, receiving evidence on affidavits; requisitioning of public record and issuing commissions for examination of witnesses. The Government is required to consult the Commission on all major policy matters effecting Non-Resident Indians. The Commission has been given power under Section 14 of the Act to conduct inquiry or investigation into the matters falling within its authority, either directly or through an investigating team constituted by the Commission or through the Deputy Commissioner of the District concerned.

It is apparent that the Act has been constituted to protect and safeguard the interests of NRIs by holding an inquiry or by investigation.

I do not find any force in the contention of learned counsel for the petitioner that the NRI Commission does not have any authority to look into the complaint or the grievance of respondent No.2. The complaint had

been filed by Dr.Bharat Mittal, respondent No.2, who is an NRI. He claims that he was persuaded to invest in the Punjab Tourism Development Corporation Ltd. scheme of availing benefit of Holiday Homes built by the petitioner Corporation at different places but those facilities had not been provided. In the complaint of respondent No.2 which would fall under the definition of a complaint under Section 2 (c) of the NRI Act, he has claimed that he feels duped as he was not able to derive benefit of the scheme despite the fact that he had contributed to the effect of US \$ 1100. The interest of an NRI is to be safeguarded and protected by recommending suitable relief for the complainant. The NRI Commission thus has not exceeded jurisdiction in ordering refund of the amount deposited by the complainant along with interest.

So far as the second contention of counsel for the petitioners that relief has been granted to all the members of the Scheme by directing the petitioner Corporation to refund the amount is concerned, since all the members have not approached the Commission for refund of the money from the petitioner Corporation, the judgment of NRI Commission cannot be implemented against the petitioners for the benefit of all the members. Any member who feels aggrieved can approach the Commission for the refund and seek relief but a prejudice has been caused to the petitioners by granting relief to all the members of the Scheme by ordering refund to all, appears to be beyond the scope of the complaint of respondent No.2. As such the impugned order dated October 19, 2016 to the extent it grants relief to all the

members of NRI Scheme is liable to be set aside. The writ petition is allowed so far as the claim of respondent No.2 is concerned but grant of relief to the persons who had not even approached the Court is hereby set aside.

With the above observations, the writ petition is partly allowed.

January 16, 2017
sanjay

(M.M.S.BEDI)
JUDGE

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