

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

226+104

Date of decision: 04.07.2018

COCP-3609-2017

RAJ KUMAR AND OTHERS

...PETITIONERS

V/S

K.K.KHANDELWAL

...RESPONDENT

COCP-1595-2018

RAJESH KUMAR AND ORS.

...PETITIONERS

V/S

K K KHANDELWAL AND ANOTHER

...RESPONDENTS

COCP-1596-2018

AJIT SINGH AND ORS.

...PETITIONERS

V/S

K K KHANDELWAL AND ANOTHER

...RESPONDENTS

COCP-1597-2018

RAVINDER AND ORS.

...PETITIONERS

V/S

K.K. KHANDELWAL AND ANR.

...RESPONDENTS

COCP-1598-2018

MAMTA AND ORS.

...PETITIONERS

V/S

K.K.KHANDELWAL AND ANOTHER

...RESPONDENTS

COCP-1599-2018

ANITA KUMARI AND ORS.

...PETITIONERS

V/S

K.K. KHANDELWAL AND ANR.

...RESPONDENTS

COCP-1600-2018

PARVESH KUMAR AND ORS.

...PETITIONERS

V/S

K.K. KHANDELWAL AND ANOTHER

...RESPONDENTS

COCP-1601-2018

RAJEEV AND ORS.

...PETITIONERS

V/S

K K KHANDELWAL AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Anurag Goyal, Advocate,
for the petitioners in COCP No. 3609 of 2017.

Mr. Maninder Punia, Advocate,
for the petitioners in COCP Nos. 1595 to 1601 of 2018.

Mr. Sandeep S. Mann, Sr. DAG, Haryana,
for the State.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Notice of motion in COCP Nos. 1595 to 1601 of 2018.

Mr. Sandeep S. Mann, Sr. DAG, Haryana, accepts notice on
behalf of the State.

Learned counsel for the State has produced an order passed by
the Co-ordinate Bench in COCP No. 3718 of 2017 titled as Somvir
Sangwan and others vs. Sh. K.K.Khandelwal, Additional Chief Secretary,
Govt. of Haryana and others, decided on 14.12.2017 pertaining to the same
issue as in these cases, which is reproduced as under:-

“ The present contempt of Court petition has been filed for
noncompliance of the order dated 23.05.2017 passed in CWP
No. 1913 of 2017 read with CWP No.10348 of 2017, Pawan
Kumar and others V/s. State of Haryana and another. In Pawan
Kumar's case (supra), learned Single Judge while disposing
CWP observed as follows: -

“ Learned counsel for the petitioners has accepted

this fact.

In the circumstances, the learned Assistant Advocate General states that she has instructions that the State will examine the claims of the present petitioners and persons who were selected in subsequent selection and to ensure that nobody is presented with a fait accompli any appointment or placement which is now made shall be provisional and subject to final placement which will be made in due course.

In this view of the matter the present petition is disposed of at this stage.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.”

Reading of the order it is evident that there is no positive direction or command to do particular thing or direction. Hence, respondent has not violated order. Therefore, it does not amount to contempt of Court and otherwise there must be order or direction and it should be expressed. From the perusal of the record, it is evident that there is no positive direction so as to determine that there is a willful default on the part of the respondents. In order to constitute contempt the order of the Court, must be of such a nature which is capable of execution by the person charged in normal circumstances. It should not require any extraordinary effort nor should it be depending, either in whole or in part, upon any act or

omission of a third party for its compliance. In substance, disobedience will take place when there is a non-compliance of an order made by a Court. Whereas in the present case statement of learned Assistant Advocate General has been recorded and there is no further direction to the respondent to do particular thing or direction as to say respondent has committed contempt.

Accordingly, petitioners have not made out a case so as to entertain contempt of Court petition and the contempt petition is hereby dismissed. Dismissal of this contempt petition would not be a hurdle to approach concerned respondent with a specific relief.”

Counsel for the petitioners have gone through the said order and state that the same order may be passed in these cases.

In view of the fact that the Co-ordinate Bench has dismissed the contempt petition on 14.12.2017 but has further observed that the petitioners may approach the concerned respondent with a specific relief, these petitions, therefore, stand disposed of in same terms as in COCP No. 3718 of 2017, referred to above.

Rule issued to the respondents stand discharged.

July 04, 2018

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No