

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

104+262

**CM-12881-CII-2018 &
COCP-540-2017**

Date of decision: 10.07.2018

MAHENDER KUMAR SINGH

...PETITIONER

V/S

K.VIJAY RAGHAVAN AND ANR.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Petitioner in person.

**Mr. Puneet Jindal, Sr. Advocate,
with Mr. Varun Goyal, Advocate,
for the applicant-respondents.**

**Mr. C.P.Goyal, Joint Secretary (Admn.), Department of
Biotechnology-respondent No. 2 in person.**

**Dr. Neeraj Jain, Director, National Brain Research Centre,
respondent No. 3 in person.**

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AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-12881-CII-2018

Prayer in this application is for exemption from personal appearance of Dr. Renu Swarup, Secretary, Department of Biotechnology, Ministry of Science and Technology, Government of India, who has taken over after retirement of Prof. K. Vijay Raghavan, who was initially impleaded as contemner No. 1 and has superannuated on 02.02.2018. Prayer for exemption from personal appearance has been sought in the light of the fact that the order passed by this Court has been duly complied with after giving a personal hearing to the petitioner on 30.05.2018 and by

passing an order of the even date (Annexure RA-2) appended along with the application.

For the reasons mentioned in the application, the same is allowed. Exemption from personal appearance is granted to Dr. Renu Swarup, Secretary, Department of Biotechnology, Ministry of Science and Technology, Government of India.

COCP-540-2017

Mr. C.P.Goyal, Joint Secretary (Admn.), Department of Biotechnology-respondent No. 2 and Dr. Neeraj Jain, Director, National Brain Research Centre- respondent No. 3 are present in person in compliance with the order dated 25.05.2018 passed by this Court.

Learned senior counsel for the respondents submits that the order passed by this Court on 29.07.2015 has been now duly complied with and in support of this assertion, he places reliance upon the order dated 30.05.2018 (Annexure RA-2) filed along with the affidavit of Dr. Renu Swarup, Secretary, Department of Biotechnology, Ministry of Science and Technology, Government of India, which order has been received by the petitioner on 31.05.2018.

On a question being asked by this Court as to why has the order been complied with almost after completion of three years, an effort has been made by the learned senior counsel for the respondents by making reference to the order dated 30.05.2018 that the petitioner was, as a matter of fact, given personal hearing by the Joint Secretary (Admn.) Department of Biotechnology-respondent No. 2 on 08.07.2016, 05.09.2016 and 15.09.2016 and on that basis, had proceeded on the assumption that the competent authority to decide the claim of the petitioner was the said

authority as he was performing his duties under the National Brain Research Centre, which was under the control of the concerned Joint Secretary (Admn.). It has further been explained that on the basis of the personal hearing, comments of the Director of the National Brain Research Centre were called for and on consideration thereof, the matter was ultimately decided on 10.04.2017. He states that it was dealt by respondent No. 2, who was the Joint Secretary (Admn.), Department of Biotechnology, Ministry of Science and Technology, Government of India under a bona fide belief that he is the appropriate authority.

The matter now has been reconsidered and personal hearing was given to the petitioner by respondent No. 1 and thereafter, a speaking order has been passed resulting in delay in compliance with the order passed by this Court. He further states that for this inordinate delay on the part of the respondents, an unconditional apology has been tendered, as is found in para-6 of the affidavit dated 30.06.2018. He, therefore, prays that there is no intentional non-compliance on the part of the respondents and it was under a bona fide belief that the whole exercise was being carried out. He again tendered apology on behalf of the respondents in Court today and by asserting that the respondents, having now complied with the order passed by this Court, rule issued to them be discharged.

Petitioner, who appears in person, asserts that a non-speaking order has been passed by the respondents without dealing with all the pleas, which have been taken by him in the present case, which has been submitted and the written submissions at the time when the personal hearing was granted to him. He, therefore, asserts that the order passed by this Court, contempt of which is alleged, has not been complied with.

I have considered the submissions made by the petitioner as well as the learned senior counsel for the respondents and on considering the said submissions, I am of the considered view that if the order dated 30.05.2018 passed by respondent No. 1 is not a speaking order, it is open to the petitioner to challenge the same as per the order dated 29.07.2015 passed by this Court. This Court would not like to comment upon the said aspect and it would be open to the petitioner to take all the pleas while challenging the said order, if so advised.

As regards the contempt having been committed by the respondents, this Court is satisfied with the response of the respondents to the extent that there was not an intentional non-compliance on the part of the respondents. However, the order, as passed by this Court, was very clear and simple, which did not require to be interpreted by them. They were required to comply with it in letter and spirit and if there was any doubt with regard to the order passed by this Court, they should have moved an appropriate application before the Court. This Court would not delve into this aspect. However, keeping in view the inordinate delay in compliance of the order passed by this Court, this Court is of the view that the petitioner should be compensated for the same and, therefore, the department is directed to pay cost of ₹10,000/- to the petitioner within a period of one month from today.

Petition stands disposed of.

Rule issued to the respondents stands discharged.

July 10, 2018

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No