

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

**CWP-18081-2017 (O&M)
Date of Decision:13.11.2018**

The Truck Operator Union

... Petitioner

Versus

State of Punjab & others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. PKS Phoolka, Advocate for the petitioner.

Mr. TPS Chawla, DAG, Punjab.

Mr. R.D. Bawa, Advocate for respondent No.4.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

The precise prayer raised in the instant petition filed at the hands of the Truck Operators Union, Maur Mandi, District Bathinda through its President is for issuance of a writ of mandamus to direct respondent No.2 i.e. the Sub Divisional Magistrate, Maur Mandi, District Bathinda to further issue directions to respondent No.4 to re-transfer an amount of Rs.12 lakhs into the account of the petitioner/Union.

Facts of the case are in a narrow compass.

Pleadings on record would show that in terms of order dated 18.03.2016 passed by Sub Division Magistrate, Maur and while exercising powers under Sections 145 and 146 Cr.P.C., Naib Tehsildar, Maur was appointed as a Receiver for proper administration of the working of the Truck Union. It was directed in the order dated 18.03.2016 that the Receiver shall maintain complete record of income and expenditure of the Union.

The entire case set up by the petitioner/Union is that the

Receiver without any authority and with an oblique motive, has siphoned out Rs.12 lakhs from the income of the Union and transferred such amount into his own personal account.

In the short reply that has been placed on record on behalf of respondents No.1 to 3, it has been stated that the order dated 18.03.2016 appointing Naib Tehsildar already stands withdrawn vide subsequent order dated 18.10.2017.

What clearly emerges is that respondent No.4 is no longer the Receiver to look after the affairs of the Truck Union.

The assertion and allegation as regards siphoning out funds by the Receiver between the period 18.03.2016 to 18.10.2017 would raise an issue with regard to determination of facts and involves triable issues.

In view of the above, the instant writ petition is disposed of with liberty to the petitioner/Union to take out appropriate civil/criminal proceedings so as to agitate their grievance in accordance with law.

It is, however, made clear that this Court has not examined the issue on merits.

Disposed of.

13.11.2018

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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|-----|----------------------------|--------|
| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |