IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.2385 of 2018
Date of Decision:21.08.2018

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Mandeep Singh

. . . . . Petitioner

Vs.

State of Punjab and others

. . . . . Respondents

*****

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

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Present: - Dr. Anmol Rattan Sidhu, Sr. Advocate, with
Ms. Shaweta Nahata, Advocate,
for the petitioner.

Ms.Lavanya Paul, AAG, Punjab.

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RAKESH KUMAR JAIN, J.

The petitioner is a retired IAS officer, who has prayed for the issuance of a writ in the nature of mandamus to direct respondent No.2 to comply with the direction/order dated 2.8.2017 passed by the Commission.

In brief, one FIR No.12 dated 26.8.2015 was registered by Superintendent of Police, Vigilance Bureau, Phase-I, Mohali under Section 13(1)(e), 13(2) of the Prevention of Corruption Act, 1988 and Sections 420, 467, 468,471 & 120-B of the Indian Penal Code, 1860 [for short 'the IPC'] at Police Station, V.B Phase-I, Mohali. The text of the FIR read as under:-

> *"Vigilance Enquiry No.02 dated 29.01.2014 Chandigarh xx was conducted into complaint against Secretary, Public Grivances Redressal & Pensioners Welfare Department Punjab (now retired), regarding his acquiring property beyond his sources. During enquiry, by fixing check period from*

01.04.1998 to 31.03.2014 chart was prepared regarding the income and expenditure of accused Mandeep Singh and his family members wife Maya Devi and sons Gursharan Deep Singh and Navjot Singh, from which it has been found that during check period the accused his family member earned total income of ₹4,79,82,910/- from their known sources, and they spent ₹7,55,74,250/-. Accused Mandeep Singh and his family members during check period spent more amount of ₹2,75,91,340/- as against their income. This expenditure is 57.50% more than their income. Besides this, Makhan Singh son of Hari Singh resident of Malewal, Tehsil Chamakur Sahib, District Rupnagar, in collusion with accused Mandeep Singh purchased and sold properties in the names of his family members by money collected through corruption and for depositing and withdrawing amounts in the accounts of the bank and in the bank he is xx purchaser, whereas in the past Makhan Singh in the year 2001 was allotted 36 kanals of land by the Punjab Government and now he has about more than 178.5 acres of land and has *other properties also. In this way in the hotel Mark Royal, Ashiana M.D. Avtar Singh son of Sarban Singh resident of Dhakoli, Zirakpur, District SAS Nagar, Mohali with a view to conceal the money collected by Mandep Singh through corrupt means, has spent money on the construction of this hotel. In this manner accused Mandeep Singh being a public servant, in collusion with others, with malafide and dishonest intention, by misusing his office, has made different properties by spending more than his known sources. By doing so, accused Mandeep Singh IAS son of Shri Naginder Singh, Secretary, Public Grievances Redressal & Pensioners Welfare Department, Punjab (now retired) resident of House No.747-A, Sector 8-B, Chandigarh, Makhan Singh son of Hari Singh resident of Malewal, Tehsil Chamakur Sahib, District Rupnagar, and Avtar Singh son of Sarwan Singh M.D. Hotel Mark Royal Ashiana, resident of Dhakoli Zirakpur District SAS Nagar, Mohali has committed offence under Section 13(1)(e) read with 13(2) of the P.C. Act."*

The petitioner was arrested on 27.2.2017 and remained in judicial custody upto 14.3.2017. The investigation in the FIR was completed with the preparation of the final report under Section 173 of the Cr.P.C. on 01.03.2017 which was filed in the Court on 8.3.2017. It is averred that the petitioner was released on regular bail on 2.06.2017 but while he was in custody, he came to know that the Government of Punjab, Department of Home Affairs and Justice has issued a notification on 5.4.2017 to constitute a Commission of Inquiry under Section 11 of the Commission of Inquiry Act, 1952 to enquire into such issues based on such reference issued to it. The said notification dated 5.4.2017 is reproduced as under: -

"Government of Punjab
Department of Home Affairs and Justice
(Home-4 Branch)
838/12.4.2017
Notification

The 5th day of April, 2017

No.7/54/2017-3H4/1274

WHEREAS it has come to the notice of the Government that a large number of persons are said to have been involved in allegedly false and baseless cases/FIRs (First information Report) in the State of Punjab during last 10 years. The maintenance of law and order in the State and the faith of people Punjab in an unbiased investigation mechanism and the administration of justice is matter of definite public importance.

AND HENCE WHEREAS the Government has considered this issue and decided to *constitute a Commission of Inquiry under Section 11 of the Commission of Inquiry Act, 1952 to inquire into such issue based on the terms of reference issued to it;*

AND WHEREAS it has further been decided that such Commission would be headed by a retired Judge of the High Court of Punjab and Haryana Justice Mehtab Singh Gill (Retd.) and would also comprise of Mr. B.S. Mehndiratta, District and Sessions Judge (Retd.) as its Members;

And whereas having regard to the nature of inquiry contemplated and the alleged circumstances of the case, the Government of Punjab is of the opinion that all the provisions of the Commission of Inquiry Act, 1952 should be made applicable to the said Commission.

NOW, THEREFORE, in exercise of the power conferred by Section 11 of the said Act, the Government of Punjab hereby constitutes such Commission of Inquiry on the following terms of reference:-

1. The Commission would:

a. Inquire into the case where persons are said to have been wrongly implicated in allegedly

> *false and baseless cases/FIRs (First Information Report) in the State of Punjab during last 10 years and submit its report to Government after such inquiry;*
>
> *b. Recommended to the Government measures to be adopted to ensure that for the future such instances do not recur;*
>
> *2. The tenure of the commission would be for an initially period of six months to be extended by Government when so required.*
>
> *3. All the provision of the Commission of Inquiry Act, 1952 shall apply to the said Commission.*
>
> *Dated, Chandigarh the 05.04.2017*
>
> *Nirmaljeet Singh Kalsi, IAS*
> *Additional Chief Secretary to*
> *Govt. of Punjab*
> *Department of Home Affairs and Justice"*

It is averred that the petitioner made a representation/complaint on 18.5.2017 to the said Commission to enquire about his alleged false implication in the FIR on which the Commission passed the order on 02.8.2017 making the following recommendations: -

> *"We recommend the re-investigation/further investigation should take place in this case by an independent agency but not by the*

> *Vigilance Bureau but by a Special Investigation team. This can be done only after taking permission from the learned trial court where the challan has been presented."*

Pursuant to the aforesaid order, the petitioner has allegedly made a representation on 24.8.2017 for compliance of the recommendation of the Commission which was repeated on 5.9.2017 and 14.11.2017 but due to inaction on the part of respondent No.2, the Directorate of Enforcement has proceeded to attach the immoveable property belonging to the family of the petitioner on the basis of the enquiry made in the vigilance case. Another provisional attachment of immoveable properties of the members of the family, wife and two sons of the petitioner for a period of 180 days was passed by respondent No.4 on 22.12.2017 which has also been challenged by the petitioner.

At this stage, it would be pertinent to mention that the order dated 22.12.2017 of provisional attachment has been passed under Section 5(1) of the Prevention of Money Laundering Act, 2002 for a period of 180 days and the said order has not been stayed by this Court. In the said order dated 22.12.2017 the Directorate of Enforcement, Government of India, made the following observations: -

> *"I have reasons to believe that:*
>
> *(i) Smt. Maya Devi W/o Sh. Mandeep Singh, IAS (now Retd.) and S/Sh. Navjot Singh and Gursharandeep Singh both sons of Sh. Mandeep Singh, IAS (now Retd.) are in possession of immovable properties i.e. agricultural lands valued at ₹2,62,46,148//-,*

which were purchased in their names by Sh. Mandeep Singh, IAS (now Retd.) s/o Naginder Singh out of the illegitimate funds possessed by him, in excess of known sources of his income. These immovable properties (agricultural lands) are proceeds of crime in terms of Section 2(u) of PMLA Act, 2002.

(ii) M/s Ashiana Inn Ltd. Dhakoli, Zirakpur, has constructed two hotels Marc Royale-I and Marc Royale-II, situated at Dhakoli, currently in possession of Punjab & Sind Bank, Sector 17, Chandigarh against loans given to said company. Said hotels were constructed by illegitimate funds possessed by Sh. Mandeep Singh, IAS (now Retd.), in excess of known sources of his income, in connivance with Sh. Avtar Singh s/o Sh. Sarwan Singh. Proceeds of crime generated by Sh. Avtar Singh s/o Sarwan Singh, by defrauding the aforesaid bank by diverting loan funds to shell companies/entities, have also been invested in construction of Hotel Marc Royale-II. These immovable properties i.e. Hotel Marc Royale-I and Hotel Marc Royale-II are proceeds of crime in terms of section 2(u) of PMLA, 2002.

54. *AND WHEREAS, perusal of certified copies of registration deeds received from the Sub-Registrar-Balachaur, Tehsildar & Sub Registrar – Chamkaur Sahib and from the replies submitted by Sh. Mandeep Singh and his sons, it was revealed that following agricultural lands were purchased in the name of Smt. Maya Devi w/o Sh. Mandeep Singh, IAS (Retd.) and S/Sh. Navjot Singh and Gursharandeep Singh both sons of Sh. Mandeep Singh, IAS (Retd.) by making payments in cash-*

Immovable properties purchased out of proceeds of crime:					
Sr. No.	***Description of Property***	***Value of the Property as per registration deed***	***Mode of payment of the property***	***Name of the owner***	***Relation with Mandeep Singh, IAS (now Retd.) s/o Sh. Naginder Singh***
1.	*Land 20K, 7M at Vill. Malana vide Vasika No.1511 dated 23.11.2011*	*6,34,936*	*Cash*	*Gursharandeep Singh*	*son*
2.	*Land at 22 K, 16.5 M Vill, Malana vide Vasika No.1520 dated 25.11.2011*	*7,13,000*	*Cash*	*Gursharandeep Singh*	*Son*
3.	*Land 22 K, 16.5 M Vill, Malana vide Vasika No.1858 dated 09.01.2012*	*7,14,000*	*Cash*	*Gursharandeep Singh*	*Son*
4.	*Land 58 K, at Vill, Malana vide Vasika No.5590 dated 27.03.2012*	*17,00,000*	*Cash*	*Gursharandeep Singh*	*Son*
5.	*Land 24 K, at Vill, Malana vide Vasika No.1510 dated 23.11.2011*	*7,50,000*	*Cash*	*Navjot Singh*	*Son*
6.	*Land 14 K, 5 M at Village Saidpur vide*	*4,45,312*	*Cash*	*Navjot Singh*	*Son*

	Vasika No.1509 dated 23.11.2011				
7.	*Land 18 K, 15 M at Village Malana vide Vasika No.1521 dated 25.11.2011*	*5,86,000*	*Cash*	*Navjot Singh*	*Son*
8.	*Land 18 K, 15 M at Village Malana vide Vasika No.1859 dated 09.01.2012*	*5,86,000*	*Cash*	*Navjot Singh*	*Son*
9.	*Land 10 K 10 M at Vill. Malana vide Vasika No.216 dated 07.05.2012*	*3,28,200*	*Cash*	*Navjot Singh*	*Son*
10.	*Land 11K 6M at Vill. Malana vide Vasika No.234 dated 08.05.2012*	*4,38,000*	*Cash*	*Navjot Singh*	*Son*
11.	*Land 12K 14M at Vill. Malana vide Vasika No.12 dated 03.04.2013*	*9,80,000*	*Cash*	*Navjot Singh*	*Son*
12.	*Land 48 K, 2M at Vill. Malana vide Vasika No.1534 dated 28.11.2011*	*1,02,500*	*Cash*	*Gursharandeep Singh*	*Son*
13.	*Land 51K 6M at Vill. Malana vide Vasika No.1750 dated 26.12.2011*	*14,75,000*	*Cash*	*Gursharandeep Singh and Navjot Singh*	*Son*
14.	*Land 25K 13 M at Vill. Malana vide Vasika No.1768 dated 28.12.2011*	*7,38,000*	*Cash*	*Gursharandeep Singh and Navjot Singh*	*Son*
15.	*Land 26K 8.5M at Vill. Malana vide Vasika No.2094 dated 21.02.2012*	*4,96,000*	*Cash*	*Gursharandeep Singh and Navjot Singh*	*Son*
16.	*Land 41K 14M at Vill. Malana vide Vasika No.4 dated 18.06.2012*	*13,04,000*	*Cash*	*Gursharandeep Singh and Navjot Singh*	*Son*
17.	*Land 26K, 6M, 6 Sarsai at Vill. Malana vide*	*4,94,000*	*Cash*	*Gursharandeep Singh and Navjot Singh*	*Son*

	Vasika No.1158 dated 14.09.2012				
18.	*Land 32K 8.5M at Vill. Malana vide Vasika No.1200 dated 21.09.2012*	*10,13,500*	*Cash*	*Gursharandeep Singh and Navjot Singh*	*Son*
19.	*Land 25K, 1M at Vill. Malana vide Vasika No.1209 dated 25.09.2012*	*7,83,000*	*By Cheque No.209874 & 138971*	*Gursharandeep Singh and Navjot Singh*	*Son*
20.	*Land 32K at Vill. Malana vide Vasika No.1484 dated 08.11.2012*	*12,00,000*	*By Cheque No.209874 & 138971*	*Gursharandeep Singh and Navjot Singh*	*Son*
21.	*Land 40K at Vill. Pragpur vide Vasika No.3796 dated 01.12.2011*	*10,00,000*	*Cash*	*Maya Devi*	*Wife*
22.	*Land 25K, 13M at Vill. Manala vide Vasika No.1749 dated 26.12.2011*	*7,38,000*	*Cash*	*Maya Devi*	*Wife*
23.	*Land 21K, 14M at Vill. Manala vide Vasika No.1767 dated 28.12.2011*	*6,78,200*	*Cash*	*Maya Devi*	*Wife*
24.	*Land 15K, 10M at Vill. Manala vide Vasika No.1896 dated 12.01.2012*	*3,50,000*	*Cash*	*Maya Devi*	*Wife*
25.	*Land 26K, 4.5 M at Vill. Manala vide Vasika No.2095 dated 21.0.2012*	*4,92,000*	*Cash*	*Maya Devi*	*Wife*
26.	*Land 25K 4 Vill. Manala vide Vasika No.215 dated 27.05.2012*	*7,82,000*	*Cash*	*Maya Devi*	*Wife*
27.	*Land 17K 16M at Vill. Manala vide Vasika No.41 dated 18.06.2012*	*5,57,000*	*Cash*	*Maya Devi*	*Wife*
28.	*Land 21K, 6.5 M at Vill. Manala vide Vasika 21.09.2012*	*6,67,000*	*Cash*	*Maya Devi*	*Wife*
29.	*Land 19K 16M at Vill.*	*7,42,500*	*By Cheque*	*Maya Devi*	*Wife*

	Manala vide Vasika No.1465 dated 05.11.2012		*No.209874 & 138971*		
30.	*Land 20K 5M 3 Sarsai at Vill. Manala vide Vasika No.1483 dated 08.11.2012*	*7,62,000*	*By Cheque No.209874 & 138971*	*Maya Devi*	*Wife*
31.	*Land 18 K 9 M at Vill. Manala vide Vasika No.11 dated 03.04.2013*	*17,02,000*	*Cash*	*Maya Devi*	*Wife*
32.	*Land 16 K 2M at Vill. Manala vide Vasika No.654 dated 18.7.2013*	*8,02,000*	*Cash*	*Maya Devi*	*Wife*
33.	*Land 2 K 10 M at Vill. Hasanpur vide Vasika No.1752 dated 29.08.2013*	*3,92,000*	*Cash*	*Maya Devi*	*Wife*
	Total Value as per deeds	***2,62,46,148/-***			

55. And whereas, as per the replies submitted by the Punjab & Sindh Bank, replies submitted by Sh. Avtar Singh s/o Sh. Sarwan Singh and his statements, copies of registration deeds obtained from the Tehsildar-Derrabassi, the description of two hotels, constructed under the ownership of company, M/s Ashiana Inn Ltd. by using proceeds of crime, is as under:-

Sr. No.	***Description of Property***	***Description of land on which building of hotels constructed***	***Owner of the land***	***Valuation of the immovable property as assessed by approved valuer of the Punjab & Sindh Bank on 16.3.2015 (Ref. Para 45)***	***Owner of the property***
1.	*Hotel Marc Royale-I Village Dhakoli, Tehsil-Derabassi. (running hotel)*	*4 Bigha 16 Biswa situated at Village Dhakoli, dist. Mohali (then Distt.*	*Sh. Avtar Singh S/o Sh. Sarwan Singh*	***Fair market Value = 33.47 crore*** ***Conservative value = 28.44 core***	*M/s Ashiana Inn Ltd.*

		Patiala) registered vide deed No.2674 dated 24.03.1999 and 14 Biswas land situated at the adjacent place registered vide deed No.106 dated 09.04.1996		**Distressed value = 26.75 crore**	
2.	*Hotel Marc Royal-II, Village Dhakoli, Tehsil-Derabassi*	*2 Bigha 12 Biswas land registered vide deed No.2748 dated 05.09.2000 , 2 bigha land registered vide deed No.2691 dated 31.08.2000 & 2 Bigha 2 Biswas land registered vide deed No.2817 dated 08.09.2000 , all land situated at village Dhakoli, Distt. Mohali (Then Distt. Patiala)*	*M/s Ashiana Inn (P) Ltd. now known as M/s Ashiana Inn Ltd.*	**Fair market Value = 58.36 crore** **Conservative value = 49.60 core** **Distressed value = 43.75 crore**	*M/s Ashiana Inn Ltd.*

56. AND WHEREAS, I have reasons to believe that the above mentioned Immovable properties mentioned under para 54 & 55 above, are likely to be transferred or dealt with in any manner which may result in frustrating the proceedings relating to confiscation of such proceeds of crime as further investigation in this *case is still in progress. These properties involved in the process of Money Laundering, if not attached immediately under Chapter III of the PMLA 2000, non-attachment of the same is likely to frustrate further proceedings under this Act.*

57. Now therefore, I order that the aforesaid immovable properties in the names of aforesaid accused are provisionally attached for a period of 180 (One hundred and eighty) days and the same shall not be removed, parted with or otherwise dealt with, without my prior permission. I further order that the aforesaid movable and immovable properties shall not be transferred/sold/gifted to or parted with without my prior permission."

The whole thrust of the case of the petitioner is that the recommendations made by the Commission should be followed and the action taken for provisional attachment of the immoveable property of his family for a period of 180 days is illegal.

Learned counsel for the petitioner has submitted that the recommendations of the Commission should have been followed and reinvestigation/further investigation should have been done by an independent agency i.e. by a Special Investigation Team and not by the Vigilance Bureau since repeated representations/reminders did not bear any fruit, therefore, prayed for the issuance of a writ in the nature of mandamus for an appropriate direction.

During the course of hearing, this Court had asked the respondents to get the status as to whether the recommendations made by the Commission have been accepted by the State Government or not.

In this regard, the Assistant Inspector General of Police, Vigilance Bureau, EOW-2, Punjab, Chandigarh filed an affidavit dated 26.02.2018 in which he averred that the Challan in the FIR No.12 dated 26.8.2015 has already been presented on 7.3.2017 in the Court of Additional Sessions Judge-cum-Special Judge, Mohali and the case is fixed for consideration regarding framing of charges. It was also averred that the recommendations submitted by the Vigilance Bureau, Punjab vide letter No.5676/VB, S-5 dated 17.2.2018 stand accepted by the State Government vide memo No.22/7/2014-4BE/1173131/1 dated 23.02.2018. It was also averred that the Vigilance Bureau has not recommended acceptance of the recommendations of the Commission because the case is pending in this Court and requested that the decision is left to be taken by the Court. Thereafter another affidavit was filed by the AIGP, Vigilance Bureau, EOW-2, Punjab on 21.3.2018 in which the following averments were made:-

> *"That the Vigilance Bureau, Punjab, wrote a letter No. 5676/VB/S-5 dated 17.02.2018 (Annexure R-1/2) to the Secretary to Govt. of Punjab, Vigilance Department, Chandigarh, recommending not to accept the recommendations made by Hon'ble Justice Sh. Mehtab Singh Gill (Retd.), Commission of Inquiry as even before registration of this case, a Vigilance Enquiry was registered and this was conducted by senior IPS officers of*

the rank of Inspector General of Police. After registration of the case, a Special Investigation Team consisting of Senior Police Officers of Vigilance Bureau headed by a DIG rank officer conducted investigation of the case in a fair and impartial manner. This Disproportionate Assets case is primarily based on documentary evidence. After culmination of the investigation, Police Report u/s 173 Cr.P.C. was presented in the Court against the accused/petitioner. Under these circumstances, it will not be appropriate to allow any other agency to conduct further investigation of this case. Thus, the decision of this case may be left with the trial Court to adjudicate this matter. The recommendations made by the Vigilance Bureau have been approved by the respondent No.1 vide memo No. 22/7/2014-4BE/1173131/1 dated 23.02.2018 (Annexure R-1/3). It is to be incorporated that the Additional Chief Secretary to the Govt. of Punjab, Department of Home has approved the contents of this affidavit vide letter No. 2188 dated 20-03-2018. Copies of the letters dated 16.03.2018, 17.02.2018, 23.02.2018 and

20-03.2018 are annexed as <u>*Annexure*</u> *R-1, R-1/2, R-1/3 & R-2/1."*

Further there was another affidavit dated 17.5.2018 filed by the AIG, Vigilance Bureau, Economic Offences Wing-2, Punjab in which the following averments have been made:-

> *"That Vigilance Inquiry No.02 dated 29.01.2014 was initiated against Sh. Mandeep Singh I.A.S. following charges of disproportionate assets as per orders of Personnel Department, Government of Punjab issued vide memo no. PRS/IAS/S-1/2013/132393/5/308/1 dated 22.01.2014. This inquiry was initiated by Sh. B. Chander Shekhar, I.P.S., Inspector General of Police, Vigilance Bureau, E.O. wing, Punjab, Chandigarh. During inquiry, check period of income and expenditure was fixed w.e.f. 01.04.1998 to 31.03.2014 and the inquiry was finalized by Sh. A.S. Rai Inspector General of Police, V.B. on 09.07.2015. On the basis of this inquiry report, F.I.R. no.12 Dated 26.08.2015 U/s 13 (1) (E) R/W 13 (2) P.C. Act 1988 and 420, 467, 468, 471, 120-B I.P.C. was registered against Mandeep Singh I.A.S.(retd.), Makhan Singh and Avtar Singh at Police Station (VB), Phase-1 Punjab at Mohali, This case was investigated by*

Special Investigation Team (SIT) under the supervision of Sh. Nilabh Kishore, I.P.S. and Sh. Surjit Singh I.P. S. During investigation of the case, income of the accused was found out to be ₹4,13,86,471 and expenditure on purchase of moveable and immoveable properties were found to be ₹9,55,07,490/- during check period w.e.f. 01.04.1998 to 31.03.2014. Accordingly, accused spent additional amount of ₹5,41,21,019 on purchase of moveable and immoveable properties during check period w.e.f. 01.04.1998 to 31.03.2014. On the basis of which it was found that he spent additional 130.76% more than his known sources of income. Besides this, it is found during investigation that 80% cost (approx. 40 crores) of Hotel Aashiana Inn and Mark Royal, Dhakoli near Zirakpur expended by Mandeep Singh I.A.S. as disclosed by Avtar Singh, partner of the hotel, during the investigation. On the basis of interim report dated 17.02.2017 of special investigation report, challan of the abovementioned case has been filed in the Court of Hon'ble Additional District and Sessions Judge, Mohali on 07.03.2017 which is subjudice *and has been fixed for hearing for charges on 21.05.2018.*

That during investigation, it has been found that accused Mandeep Singh I,A.S. (retd.) was recruited as P.C.S. officer on 14.08.1979. He was promoted as I.A.S. officer in the year 1991 and retired on 31.05.2015. As per record, property statements of accused Mandeep Singh have been received. On the basis of property returns filed by him, as such, 06 property returns have been attached as Annexure R-1 from year 1990-91to 1999-2000. As per property returns filed by accused Mandeep Singh I.A.S. (retd.), he has shown "Nil" property regarding immovable properties in these returns. Accused Mandeep Singh has given details regarding land purchased by his family members measuring approx. 100 acres which is written by him on 09.09.2013 which is annexed as Annexure R-2. During investigation, it is found that father of accused Mandeep Singh expired in the year 2000 and he was serving as Superintendent in Punjab Vidhan Sabha and had received amount of ₹96,965 with pension @ 1062/- p.m. when he superannuated as Deputy

Secretary is annexed as Annexure Annexure R-3. As per his will, he had mentioned ½ share of Aashiana Inn Pvt. Ltd., Dhakoli besides other kothis which were entered on his name i.e. Mandeep Singh after year 2000. During investigation it was found that from year 1985 to 2000, father of Mandeep Singh was not drawing salary from anywhere still he has purchased property. Accused Mandeep Singh purchased property before year 2000 and got it entered in the name of his father and transferred to himself after preparing will in his favour and shown only parental house in the name of his brother Sarabjeet Singh. Will of his grandfather Bir Singh and that of Naginder Singh, father of accused Mandeep Singh, are annexed as Annexures R-4. These kothis have not been mentioned in the will of Bir Singh i.e. grandfather of accused Mandeep Singh.

During investigation, check period has been fixed w.e.f 01.04.1998 to 31.03.2014 and accordingly charts regarding income and expenditure of accused Mandeep Singh, which were attached with challan, are annexed as Annexure R-5. Details regarding income and expenditure incurred by the *petitioner as per check period w.e.f. 01.04.1998 to 31.03.2014 is as per following:-*

Sr. No.	*Assets*	*Year 1979 (when Mandeep Singh was recruited as PCS Officer)*	*Year 1991 to 2014 (Since Mandeep Singh was promoted as IAS Officer)*	*Income*	*Year 2015 (When he got retired)*	*Expenditure*
		NIL (As per 06 property returns filed by Mandeep Singh from 1990-91 to 1999-2000 annexed at Annexure R-1)		***20634962/-***	*Annexure R-5*	***29231126/-***

Immoveable Property

Sr. No.	*Assets*	*Year 1979 (when Mandeep Singh was recruited as PCS Officer)*	*Year 1991 to 2014 (Since Mandeep Singh was promoted as IAS Officer)*	*Income*	*Year 2015 (When he got retired)*	*Expenditure*
		NIL (As per Annexure R-1)		*6250000/-*	*Annexure R-5*	*62816363/- Total Rs.95507490*

Salary withdrawn during service from year 1978 to 1998	*Record not available due to paucity of time*
Salary withdrawn during check period w.e.f. 01.04.1998 to 31.03.2014 including all other known sources of income as mentioned in Income Chart from sr. no. 1-4.	*1) Salary = ₹8330614* *2) Arrear = ₹813675* *3) Unsecured Loan = ₹5290000* *4) Arrear = ₹67220* *Total = ₹14501509*
Total Expenditure = ₹9,55,07,490/- *Total Income = ₹4,13,86,471/-* *Additional Expenditure = ₹4,41,21,019/- = 130.76%*	

The petitioner had also given the details of the property owned by him by way of inheritance from his father, which read as under: -

1) One Kanal Kothi No. 1810, Sector-34/D, Chandigarh;

2) One Kanal Kothi No.1584, Sector-33, Chandigarh;

3) SCO No. 9-10, Sector-22/C, Chandigarh;

4) SCF No. 57, Sector-47/D, Chandigarh;

5) Industrial Shed of one Kanal No. 182/32, Industrial Area, Chandigarh;

6) National Saving Certificates worth ₹30,000/- as 1/2 share;

7) ₹16,000/- in the saving Bank Account of my father as ½ share;

8) FDR worth ₹20,000/- as 1/2 share of Central Bank of India, Sector-18, Chandigarh.

The father of the petitioner had retired as Deputy Secretary. He had also given the details of the land measuring 97 acres 5 kanal 4 marla owned by his family members. The respondents have attached the income and expenditure chart of the petitioner as Annexure R-5 between check period w.e.f 1.4.1998 to 31.3.2014 to show that as against total income of ₹4,13,86,471/- the expenditure incurred by the petitioner was ₹9,55,07,490/- i.e. the additional expenditure of ₹5,41,21,019/- without disclosing any source for the same.

Be that as it may, the question arises in this case is as to whether the petitioner is entitled to seek a mandamus for the compliance of the order passed by the Commission dated 2.8.2017.

It is pertinent to mention that the Commission has not looked into the aforesaid aspects of the matter at all and passed a cryptic order by which it has been held that the enquiry conducted against the petitioner was not fair while recommending for re-investigation/further investigation by an independent agency, not by the Vigilance Bureau but by the Special Investigation Team. It is also observed that this should be done only after taking permission from the trial Court where the challan has been presented.

According to the counsel for the respondents, the Commission has no jurisdiction to make such recommendations as the jurisdiction conferred upon the Commission, at the time of making reference, was to enquire into the cases where persons are said to have been wrongly implicated in allegedly false and baseless cases/FIRs in the State of Punjab during the past 10 years and submit its report to the Government after such enquiry and also to recommend to the Government measures to be adopted to ensure that in future such instances do not recur.

According to the respondents, the Commission was to make enquiry and submit the enquiry report. It has not been given any jurisdiction to recommend the reinvestigation or further investigation and also to choose the agency to investigate or not to investigate. It is for the Government to decide about the same.

A Constitutional Bench of the Supreme Court in the case of *"Dr. Subramanian Swamy Vs. Arun Shourie"* 2014(12) SCC 344 has categorically held that the Commission constituted under the 1952 Act is a fact finding body to enable the appropriate Government to decide as to the course of action to be followed and such Commission is not required to adjudicate upon the rights of the parties and has no adjudicatory functions. It has further held that the Government is not bound to accept its recommendations or act upon its findings.

The Commission at the most could have recommended the Government on the basis of its findings as to how the enquiry has not been fairly conducted but had no competence to adjudicate upon the issue of re-investigation/further investigation and that too by an independent agency or by SIT but not by the Vigilance Bureau.

Thus, I am of the considered opinion after going through the record that the learned Commission has exceeded its jurisdiction while passing the impugned order dated 02.8.2017 which does not deserve to be accepted at any cost by the State Government and hence the prayer made by the petitioner for the issuance of a direction to the respondents to accept the recommendations of the Commission is not made out.

Insofar as the order dated 22.12.2017 is concerned, it was passed for a period of 180 days. The said period counted from the date of the order appears to have expired and therefore, the prayer in this regard has also become redundant.

No other point has been raised.

In view of the aforesaid facts and circumstances, there is hardly any merit in the present petition and the same is hereby dismissed though without any order as to costs.

(RAKESH KUMAR JAIN)
JUDGE

21.08.2018
Vivek

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