

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

CWP No.3847 of 2018
Date of Decision: 19.02.2018

Sanjay Kumar

. . . . Petitioner

Vs.

Lokayukta Haryana and others

. . . . Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.Lalit Pardhan, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J.

The petitioner is the Principal of Government Senior Secondary School, Village Kalinga, Tehsil & District Bhiwani. As many as 4 school teachers made a complaint against him for usurping the government money by selling the trees of school without permission and accounting for the money received. The said complaint, made to the Lokayukta, was enquired into through the Director, Secondary Education Haryana, Panchkula, who submitted his report on 14.10.2016. Thereafter, the matter was placed before the Registrar for preliminary enquiry. In the preliminary enquiry, the Registrar has opined that *“since the value of the trees was not got assessed so it is not possible to say what was the value of the trees but certainly since the DEO was kept in dark and no intimation was given and also no proper procedure for disposal of trees has been adopted so possibility of selling trees under valuation in collusion with villagers cannot be ruled out. Since even the sale price of ₹9000/- has not been deposited in the school, Govt. Treasury or school bank the Principal cannot be ruled out.*

Mere saying the said amount was spent on the school is not sufficient to prove that said amount was in fact utilized for the benefit of school as there is not evidence how and in what manner said amount of ₹9000/- was spent on the school. So prima facie it is proved that the Principal Sanjay Kumar is guilty of dereliction of duty, as well as embezzlement of at least ₹9000/- which was alleged sale price of the said trees. It is also not out of place to mention that if assessment of the trees had been got made from the Forest Department, then trees could have been sold on much higher price. So report be submitted before the Hon'ble Lokayukta along with record so that competent authority may be asked to take appropriate action against the Principal".

Thereafter, the matter was put up before the Lokayukta. The Lokayukta has passed the order recommending criminal as well as stern department action against the petitioner by observing thus: -

According to the respondent all the five trees were auctioned and the auction money of ₹9000/- has been utilized for filling the earth in the school ground, as it was necessary in the interest of the student. By referring to a letter written to the D.F.O/S.P District Bhiwani allegedly signed by the Sarpanch and other respectable persons from village Tigrana including some of the complainants he further submits that he has spent an amount bonafidely in the interest of the

school. However, there is nothing in the reply filed by the respondent that the valuation of the trees has been done by the Forest Department were auctioned as per rules and the amount has been deposited in the school's account. Even the type and size of trees has not been shown in the reply.

From the above, the only inference which can be drawn is that the trees have been sold in the market on higher price than which is has been shown by the respondent and that too with out depositing the same in the school's account. This, prime facie it is a clear cut case of embezzlement.”

Learned counsel for the petitioner has argued that the order of the Lokayukta is patently illegal as he has observed that the valuation of the trees has not been got done from the District Forest Officer and has referred to the letter of the Forest Department, Government of Haryana O/o Range Forest Officer, Bhiwani dated 12.01.2016 to the Divisional Forest Officer, Bhiwani in which he has mentioned that the trees in the school premises is under the Gram Panchayat, the Panchayat and the School Samiti is working together and the same is not under the forest department. It is thus submitted that the trees do not belong to the Forest Department, therefore, there was no occasion for the petitioner to get the valuation of the trees from the Forest

department. It is also argued that it is an act of vengeance on the part of the complainants as the petitioner has also made a complaint against them.

I have heard learned counsel for the petitioner and after examining the record, am of the considered opinion that there is no merit in the present petition because even if the Forest department has nothing to do with the trees and the same were the property of the school as they grew within the school premises and also fell in its premises because of storm etc., the very fact that the petitioner did not deposit the sale proceeds of the trees in the school account and has allegedly spent the same on some welfare activity of the school, is sufficient to hold that the petitioner is guilty of *suppressio veri and suggestio falsi* because if it is alleged that the trees were sold for ₹9,000/- as against ₹50,000/- then it was for the petitioner to prove the actual price of the trees on which they were sold and that the said matter could have been proved only by depositing the sale proceeds in the account of the school and not retaining the same with himself for the purpose of incurring expenses, may be for the welfare of the school. Moreover, no permission was sought by the petitioner from the department of Education before selling the trees, much less, the trees which were of Kikkar and Sheesham, that too, for a paltry sum of ₹9,000/- as alleged.

Thus, in view of the aforesaid, there is hardly any reason for this Court to interfere in this petition for setting aside the impugned order and as such the same is hereby dismissed.

19.02.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No