

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

CWP No.7657 of 2018 (O&M)

Date of Decision: 16.05.2018

Sandeep Malik

... Petitioner

Versus

State of Haryana and others

... Respondents

**CORAM:-HON'BLE MR. JUSTICE AJAY KUMAR MITTAL, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA**

Present:- Mr. Anand Chhiber, Senior Advocate with
Mr. B.S.Dhatt, Advocate,
for the petitioner.

TEJINDER SINGH DHINDSA, J.

Petitioner has filed the instant petition in public interest seeking issuance of a writ of certiorari for quashing of a work order dated 25.07.2017 (Annexure P-2) allotted in favour of respondent No.4 for; *“Rehabilitation of Drain No.6 into RCC Storm Water Drain along with its covering and Construction of other City Drains in Sonapat Town in AMRUT Programme.”*

Writ of mandamus is sought to direct an independent and impartial investigation in the allotment of the tender work in favour of respondent No.4 through an independent and external investigating agency like the Central Bureau of Investigation or by constitution of a Special Investigation Team (SIT).

A prayer has also been made for directing respondent Nos.1 to 3 to ensure completion of the work in question at the hands of a duly qualified contractor and by initiating tender

proceedings afresh.

Learned Senior counsel submits that respondent No.4 was ineligible in terms of NIT (Annexure P-1) and as such could not have been allotted the contract. It is urged that no effective steps have been carried out at the work site even after expiry of more than 07 months from the date of issuance of the work order and since nearly half of the prescribed completion period of 15 months has already elapsed, this in itself shows the incompetence of respondent No.4. It is contended that the instant petition is maintainable in the form of Public Interest Litigation as the petitioner is a resident of District Sonapat and his residence abuts the proposed Storm Water Drain. The allotted work pertains to drainage for entire Sonapat District and as such inability of respondent No.4 to perform the work allotted as per desired standard would affect the health and quality of life of all residents of District Sonapat.

We have heard learned Senior counsel at length and have perused the pleadings on record.

The guidelines for entertaining a Public Interest petition have been laid down under the Maintainability of Public Interest Litigation Rules, 2010. Clause 6 of the Rules would be relevant to the issue at hand and is reproduced hereunder:-

“6. Ordinarily, the PIL may be entertained on any subject of vital public importance, such as:

a) Bonded Labour matters.

b) Neglected Children.

c) Petitions from riot victims.

d) Petitions complaining of harassment or torture of persons belonging Scheduled Castes, Scheduled Tribes and other Backward Classes by the others or by the police.

e) Petitioner pertaining to environmental pollution, disturbance of ecological balance, forest and wild life.

f) Petitioners complaining violation of human rights.”

We are of the considered view that the nature of grievance set out in the petition does not fall within clause 6 of the 2010 Rules under which PIL may ordinarily be entertained. The entire thrust of the petition is with regard to interpretation of the terms and conditions of a Notice Inviting Tenders (NIT) and to declare respondent No.4 to be ineligible for the tender work. Such an issue ought to have been raised in appropriate proceedings by parties who had participated in the tender allotment process. Even if the work on site has not made any progress as has been asserted by the petitioner, it would always be open for the competent authority to invoke the relevant provisions of the contract/work order and to take necessary coercive and remedial steps as warranted in accordance with law.

We are further of the considered opinion that petitioner has no locus standi to file the present petition in the nature of a PIL. Petitioner has simply mentioned that he is engaged in poultry farming and his residence as also farm abuts the proposed Storm Water Drain. Even though the submission raised by learned counsel as regards non-completion of the work of Storm Water

Drain affecting the health and quality of life of residents of Sonapat District appears attractive at first blush yet it may be noticed that prior to allotment of the work order in favour of respondent No.4, the petitioner in spite of being a resident of the area had not even raised his little finger highlighting the public interest that he now seeks to espouse in the instant petition. The 2010 Rules had been examined by a Division Bench of this Court in ***Ajaib Singh and another Vs. State of Punjab and others 2013 (4) PLR 367*** and it had been observed that the expression “specifically disclose his credentials” imply that a person invoking the PIL jurisdiction of this Court has to set forth what public interest he has been espousing in the past and the work done by him on that behalf. We find that the instant petition is completely lacking on such aspect.

For the reasons recorded above, the present petition is held to be not maintainable at the behest of the present petitioner and the same is, accordingly, dismissed.

(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

16.05.2018

vandana

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No