

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

CWP No.8717 of 2018 (O&M)

Date of decision: 05.07.2018

Suresh Kumar

.....Petitioner

Versus

Lokayukta Haryana, Chandigarh and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Renu Dhull, Advocate,
for the petitioner.

Ritu Bahri, J.

The petitioner is seeking a writ of certiorari for quashing the order dated 05.02.2018 (Annexure P-11) passed by the Lokayukta, Haryana in complaint No.193 of 2016. Further prayer has been made for issuance of direction to respondent No.1 to investigate the matter through an independent agency and take action against respondent Nos. 2 to 8.

On 16.05.2016, petitioner made a complaint No.193 (Annexure P-1) before the Lokayukta, Haryana alleging that respondent Nos. 2 to 8 had put him into illegal custody and gave burn injuries. In order to save themselves, they have destroyed the record of first FIR, CCTV Footage and call record. It was further alleged that respondent No.2 prepared false record of a false person. On 25.05.2017, enquiry report from SHO, Police Station, City, Kaithal was received. Thereafter, on 27.06.2017, an intimation was given to the petitioner for consideration. On 24.07.2017, the Registrar Lokayukta, Haryana passed an order dated 24.07.2017 (Annexure P-3) on the complaint made by the petitioner and held that the dispute in the present

case was with regard to the property of Wakf Board and the complainant had already filed a civil suit. With regard to the alleged incident dated 07.10.2015, a criminal case had already been registered against the complainant and one another person. They are facing trial and charges have already been framed against them. The matter was subjudice and no further enquiry was required. Against this report/order, objections were filed by the petitioner on 13.11.2017 (Annexure P-4). Thereafter, written arguments were submitted by the petitioner on 05.02.2018. The case of the petitioner is that the impugned order dated 05.02.2018 (Annexure P-11) has been wrongly passed by the Lokayukta.

Heard.

After going through the impugned order dated 05.02.2018 (Annexure P-11), no interference is required therein. It was alleged by the complainant that Mohd. Akil, C.O. Wakf Board, Krishan Murari, Superintendent of Police, Kaithal, Virender Kharab, SHO Police Station, City, Kaithal, Joginder Singh, DSP, A.E.C., Kaithal and Azad, Rent Collector, Wakf Board, Kaithal, in order to grab money, got a false case registered against the complainant (petitioner herein). It was further alleged that Baba Kamal Shah Coaching Society had been registered vide registration No.00326 and the complainant was president of aforesaid society. He used to look after and manage Baba Shah Kamal and Dargah Baba Shah Sikander Kadri for the last many years. Those are situated at Jawahar Park, Kaithal for the last more than 500 years. For the last 60-70 years, both Dargahs were being managed by Hindus and complainant (petitioner) was managing and looking after the work of management since 1998. It was further alleged that Shri Roshan Lal had entrusted the

management to Baba Kulwant Shah, who further entrusted the management to complainant on 28.05.2004. It has been further alleged that all the above said persons, in order to grab money of both the Dargahs, got a false case (FIR No.320 dated 07.10.2015) registered against the complainant (petitioner) at Police Station, City, Kaithal. On 07.10.2015, at about 9.30 P.M., he was picked up from the Dargah and was kept in illegal custody by the police. He was given injuries with burning cigarette. It was further alleged that D.V.Rs. affixed at the Dargah were destroyed and record of the Dargah was also taken by them. Complainant had also moved applications/complaints to the Governor of Haryana, Home Minister of India, C.M. Window, Director General of Police, Haryana and Human Rights Commission, but action was taken thereon.

On receipt of complaint, Lokayukta proceeded to enquire into the matter. The complaint was forwarded to the Director General of Police, Haryana. After associating the complainant, enquiry report was filed, to which, the complainant filed his objections. In the enquiry report, it was found that FIR No.320 dated 07.10.2015, under Sections 295-A/393/165-A/447/511 IPC was registered against the complainant and during investigation, complainant Suresh Kumar (petitioner) and Naresh Puri were arrested. After investigation, Satish son of Pirthi Singh, Bobby @ Kirti son of Ramesh Chand, Harish Kumar son of Radhe Shyam were found innocent and challan, in this regard, was presented in the Court of Chief Judicial Magistrate, Kaithal. It was further reported that the present complaint has been filed just to create a defence. In the objections filed by the complainant, it was alleged that property in dispute was not a Wakf property. It was further alleged that respondents had destroyed the record of

society.

After going through the matter, the Lokayukta has given a finding that vide judgment dated 24.12.2002 passed in civil suit No.2 of 2000, titled as 'Punjab Wakf Board, Kaithal vs. Municipal Committee, Kaithal', the property in dispute was leased out by the Punjab Wakf Board to the Municipal Committee for a period of 99 years commencing from June, 1965. The suit filed by Wakf Board was partly decreed and defendant-committee was restrained from raising any type of construction on the area of 1500 Sq. yards, as the same was reserved for the construction of the rest house by the plaintiff-Board. The ownership of Wakf Board was duly proved. Hence, the defence taken that this land did not belong to the Wakf Board was rejected. In case bearing FIR No.320 dated 07.10.2015, challan has been presented and further investigation with regard to incident dated 07.10.2015 was not required to be done at this stage. Moreover, in the civil suit filed by complainant (petitioner) for permanent injunction, interim injunction has not been granted. Even, the suit is pending adjudication. It was further observed that dispute regarding management of Dargah is also pending before the Court of law. Hence, further investigation was not required. It has been held that as per reply filed by SHO to the objections of the enquiry, there were two Dargahs in the name of Baba Kamal Shah and Baba Shah Sikander, which are situated in Jawahar Park, Kaithal. They were controlled/ managed by Haryana Wakf Board. Shri Rajnish Shah son of Shri Kulwant Shah has been appointed as Chief Care Taker vide order dated 02.06.2015 passed by the Chief Administrator, Haryana Wakf Board, Ambala City. As per above report, complainant-Suresh Kumar wanted to grab the said Wakf property alleging himself to be the president of Baba

Kamal Shah Education Society, but no injunction was granted in his favour. In a separate suit titled as 'Baba Kamal Shah vs. Rajnish etc.', he again alleged himself to be president of Baba Kamal Shah Coaching Society, but could not succeed in getting any injunction order from the Court. Thereafter, he forcibly tried to take possession of Wakf property. Accordingly, FIR No.320 dated 07.10.2015, under Sections 295A/393/153A/439/511 IPC was registered against him, in which, he was facing trial.

Having examined the whole issue, since the matter is already pending before the Court of law, the petitioner can avail his remedy by pursuing his civil suit(s) and defending himself in criminal trial by leading cogent and convincing evidence to prove that he was innocent. No ground is made out to quash the impugned order, as no illegality, much less perversity has been found therein warranting interference by this Court.

Resultantly, finding no merits, present petition stands dismissed.

05.07.2018
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No