

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-15921-2019 (O&M)
Date of Decision: 12.12.2019

Morning Glory Public Society

--Petitioner

Versus

State of Punjab & others

--Respondents

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

Present:- Mr. Harish Goyal, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J (Oral)

Petitioner is stated to be a society and registered with the Registrar of Societies, Punjab.

Instant writ petition is directed against the order dated 4.10.2018 (Annexure P-1) issued by the Punjab AIDS Control Society calling upon the petitioner-society to refund the entire amount for the financial year 2017-2018 and 2018-2019 that had been released for a Targeted Intervention Project at Kapurthala which was being run by the petitioner-society and was discontinued. As per impugned order dated 4.10.2018 (Annexure P-1), petitioner society has been called upon to refund an amount of Rs.25,98,033/-. Further challenge is to the communication dated 17.5.2019 (Annexure P-2) issued by the Punjab State AIDS Control Society declining the request of the petitioner society to waive off the recoverable amount afore-noticed.

Counsel has vehemently argued that the impugned order at Annexure P-1 dated 4.10.2018 cannot sustain as the direction to refund the amount in question has been issued without holding any inquiry and without even issuance of a show cause notice. It is further urged that the petitioner society while functioning as an N.G.O had utilized the funds in question in a

proper manner towards implementation of the Targeted Intervention Project and as such, there was no occasion for such amount to be now refunded to the Punjab State AIDS Control Society.

Having heard counsel at length and having perused the pleadings on record, this Court is of the considered view that there is no merit in the instant petition and the same deserves to be dismissed.

Pleadings on record would indicate that petitioner society was associated with an AIDS Control Project. Such project was funded by the National AIDS Control Organization (NACO) and it was providing financial assistance to the Punjab State AIDS Control Society (PSACS). The Punjab State AIDS Control Society was running the project in various parts of the State in association with different N.G.Os/Community Bodies. The project was named as the Targeted Intervention Project (TIP). The main aim of the N.G.Os under the project was to make an attempt to reduce the prevalence of HIV and to focus on a targeted population i.e. female sex workers and injected drug users.

Pleadings on record and appended at Annexure P-8 along with the petition is an order dated 31.8.2018 issued by the Punjab State AIDS Control Society and addressed to the Director of the petitioner society on the subject of discontinuation of the Targeted Intervention Project being implemented at Kapurthala. Perusal of such order would reveal that a visit had been made by the concerned officers of the Punjab State AIDS Control Society to the project premises being run by the petitioner society at Kapurthala between 23.8.2018 to 25.8.2018 and it was reported that the petitioner society was indulging in financial embezzlement and also doing programme data manipulation. Accordingly, as per directions of the

Additional Secretary, Health-cum-Project Director, PSACS, the Targeted Intervention Project by the petitioner society/N.G.O at Kapurthala was terminated with immediate effect. In such order itself dated 31.8.2018 (Annexure P-8) it was recited that the petitioner society would be informed regarding the recoverable amount and which would need to be deposited in the PSACS account.

It has gone uncontroverted that pursuant to the order dated 31.8.2018 (Annexure P-8) the petitioner society shut operations for the project in question at Kapurthala. A specific query was put to counsel as to whether the order dated 31.8.2018 (Annexure P-8) was ever put to challenge. The categoric response forth coming is that since the project at Kapurthala was closed immediately, the petitioner society was not, as such, aggrieved of the same.

Be that as it may, the order dated 31.8.2018 (Annexure P-8) calling upon the petitioner society to shut the project at Kapurthala was on the basis of a finding recorded that there has been financial embezzlement and the petitioner society was guilty of doing certain program data manipulation. Such findings have not been challenged by the petitioner society in any proceedings. The order dated 31.8.2018 (Annexure P-8) is not even a matter of challenge in the instant writ petition.

The impugned orders at Annexures P-1 and P-2 calling upon the petitioner society to refund the amount in question as a mere consequence of the basic order dated 31.8.2018 (Annexure P-8).

Without there being any challenge being laid to the basis of passing of the orders at Annexures P-1 and P-2, no intervention in the writ petition would be warranted.

Petition, accordingly, is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

12.12.2019
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No