

Sr. No. 209

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

CWP No.21220 of 2015 (O&M)

Date of Decision: 25.03.2019

Vikas Kumar Mahajan

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Rajeev Dev Sharma, Advocate,
for the petitioner.

Ms. Ambika Sood, DAG, Punjab.

Mr. Sameer Sachdeva, Advocate,
for respondents No.3 and 4.

ARUN MONGA, J.(ORAL)

The present writ petition has been filed, *inter alia*, for issuance of a writ in the nature of certiorari to quash the impugned order dated 03.03.2014 (Annexure P-5), whereby, respondent No.1-Government of Punjab has declined to grant sanction to the respondent-Municipal Corporation, Pathankot's Resolution No. 107 regarding payment of wages to the Sewermen, who were outsourced from October, 2013 to February, 2014.

2. Succinctly, the factual backdrop is that due to paucity of regular sewermen, the services of contractual labour/sewermen were engaged by outsourcing them through a Contractor, as per the Instructions of the Government. For carrying out cleaning of

the sewer lines, Municipal Corporation outsourced 32 Sewermen through the petitioner/Contractor as per the list appended with the letter dated 18.03.2014 (Annexure P-6), issued by the Commissioner of Municipal Corporation to the Director, Local Bodies, Punjab. In the said letter, the Municipal Corporation elaborately spelled out the reasons for outsourcing 32 Sewermen who were engaged to maintain the sewerage administration of the city.

3. Vide impugned order, no reasons have been assigned for rejecting the recommendation of the Municipal Corporation for paying the wages of the said Sewermen other than a cryptic note stating that “***this order is cancelled. The necessary order will be issued at the later stage.***” The said impugned order was passed qua Resolution No.107 dated 02.12.2013 (Annexure P-1) seeking sanction from the Government for disbursement of the wages to 32 Safai Sewak/Sewermen. After the declining of requisite sanction vide impugned order, the Corporation once again sent recommendation vide letter dated 18.03.2014 (Annexure P-6), which also did not yield any result.

4. In the circumstances, the petitioner also caused a legal notice dated 22.07.2015 (Annexure P-7), but the same too was not adverted to by the respondents, hence the writ petition.

5. In the reply filed by respondents No.1 and 2-Government of Punjab, a stand, *inter alia*, has been taken that the work order was issued by the Municipal Corporation vide letter dated 20.12.2013 (Annexure P-4), without getting prior approval of

the Government qua Resolution No.107. Therefore, the sanction was rightly not granted to the Municipal Corporation. It has also been stated that Resolution No.107 passed by the Municipal Corporation, has been disapproved owing to non-furnishing of relevant information, sought from the Corporation, regarding the engagement of the said 32 Sewermen. It is further stated that Municipal Corporation, Pathankot, has taken a stand that these Sewermen had been engaged since the time of Municipal Council by the then President in accordance with the Instructions issued by the Government. The said stand/response of MC was not found to be satisfactory by Government and, therefore, the sanction was not granted.

6. I have gone through the respective pleadings and have heard the learned counsels appearing for the parties herein. I am of the view that the impugned order does not stand judicial scrutiny and is not tenable. An order under challenge must speak for itself and pleadings of the case cannot improve its contents, other than offering explanation qua circumstances leading to passing of such an order.

7. The impugned order nowhere disputes the deployment of 32 Sewermen engaged by the Municipal Corporation. There is not even a whisper with regard to the admissibility of the wages to be paid to the said Sewermen, from whom the work has been extracted at the relevant time and who have been left in a lurch, owing to the pedantic approach and red tapism adopted by the State Government.

8. One cannot help but remind the State functionaries that the sewer men put their life at risk to clean the sewers owing to the nature of job which exposes them to inhalation of toxic gases emanating out of sewers. Notwithstanding, for such an endangered job, sewer men are paid meagre wages, forcing them to live in penury. And yet the lack of sensitivity is writ large in the present case, given the apathy shown by State officials.

9. It is nothing but sheer misuse of dominant position that after extracting work from these sewer men their legitimate dues are withheld at the instance of State, compelling the workers to approach this Court for judicial interdict of their exploitation and the indignity with which they have been treated.

10. The reason given in the impugned order for non-sanction of the payment of wages to Sewer men is highly cryptic and non-speaking. It does not disclose as to why the Resolution is not being accepted. In fact, while cancelling the said Resolution, it is stated that “***necessary order will be issued at the later stage***”. Neither any such order has been placed on record before this Court nor was any such order ever conveyed to petitioner or sewer man, as contended by the learned counsel for the petitioner.

11. In the premise, it is unfair, unreasonable and highly arbitrary on the part of the respondent-State for not accepting Resolution and the subsequent recommendations of the Municipal Corporation after having extracted the work from 32 Sewer men who had been earlier deployed by the Municipal Council. The sewer men, as per list Annexure P-7, are, accordingly, held

entitled to the wages, qua the work executed by them, on their deployment by the Municipal Corporation.

12. In view of my discussion and the reasons contained hereinabove, the impugned order dated 03.03.2014 (Annexure P-5) is set aside and consequently, respondent No.1 is directed to accord necessary approvals to Resolution No.107 and release the wages due to the 32 Sewermen who were deployed, through the petitioner, along with interest @ 9% per annum, w.e.f. 01.03.2014, till the date of actual payment. Respondents are further directed to compensate by paying the late fee on the Employees Provident Fund (EPF) that would arise qua the payment of wages for the period October, 2013 to February, 2014.

13. Writ petition is allowed in the aforesaid terms.

(ARUN MONGA)
JUDGE

25.03.2019

vandana

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No