

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

CRM-M-28241-2009(O&M)

Date of decision :06.12.2019

Piara Singh Bhaniara

... Petitioner

Versus

State of Punjab and another

... Respondents

***CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ARUN PALLI***

Present: Mr.V.B. Aggarwal, Advocate
for the petitioner.

Mr.H.S.Grewal, Addl.A.G. Punjab.

Mr. RPS Bara, Advocate
for the intervener-SGPC.

RAJIV SHARMA, J.(ORAL)

The petitioner had earlier challenged notification dated 27.09.2001 by way of CWP no.8045 of 2002. The notification was quashed by the learned Single Judge of this Court on 11.11.2008. The operative part of the judgment reads as under:-

“From the above reasons, I quash the impugned notification dated 26.09.2001 (Annexure P-1). However, keeping in view the sensitivity of the issue, and the fact that the petitioner has not denied the existence and publication of objectionable material in the book, the

respondent-State is permitted to pass a fresh order, after recording grounds and formulating its opinion as contemplated by Section 95 of the Cr.P.C. Let the necessary orders be passed within two weeks from the date of receipt of a certified copy of this order. However, till fresh orders are passed, the order of forfeiture and ban shall remain in operation.

A copy of this order be communicated to the Chief Secretary, State of Punjab and Advocate General Punjab.”

Thereafter, the new notification was issued on 15.12.2008 to ban the printing publications, sale, possession, rendering of translations into any other language of “Bhavsagar Samundar Amar Bani Granth” under Section 95(1) of the Code of Criminal Procedure, 1973. The copy of notification dated 15.12.2008 was sent to the Controller, Printing and Stationary, Punjab, Chandigarh, with the request to publish the notification in the Gazette and send 100 copies to the department. The petitioner could challenge the notification issued under Section 95 of the Code of Criminal Procedure within two months from the date of publication in the Official Gazette of such declaration. Neither the petitioner nor the respondents have placed on record copy of Official Gazette as per Section 96 of the Code of Criminal Procedure. According to Section 2 (m) of the Code of Criminal Procedure “notification” means a notification published in the Official Gazette. In view of this, it shall be open to the State of Punjab to publish the notification dated 15.12.2008 in the Official Gazette to bring the

notification in conformity with Sections 95 and 96 of the Code of Criminal Procedure.

Since the petitioner has not placed the copy of Official Gazette on record to prove that the notification was published in accordance with law, the petition is not maintainable under Section 96 of the Code of Criminal Procedure.

Accordingly, the petition is dismissed.

(RAJIV SHARMA)
JUDGE

(RAKESH KUMAR JAIN)
JUDGE

(ARUN PALLI)
JUDGE

December 06, 2019.

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No