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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
2019.11.05 15:20
I attest to the accuracy and
authenticity of this document

CWP-31815-2019 (O/M)
Date of decision : 2.11.2019

Naveen

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present:- Mr. Raj Kaushik, Advocate
for petitioner.

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RAJIV SHARMA, J (ORAL)

This petition under Article 226 of the Constitution of India has
been filed seeking the following main reliefs :-

- “(i) to call the entire records of the case ;
- (ii) issue a writ in the nature of certiorari quashing the Vigilance Inquiry Report dated 26.6.2019 (Annexure-P-19) wherein inquiry has been conducted by the Vigilance Department, Haryana, the same being illegal, arbitrary and violative of Article 14, 19 and 21 of the Constitution of India and further violative of their own guidelines dated 28.5.2010 (Annexure-P-20) and para 14.5.4 and 14.5.6 of the Haryana PWD Code;
- (iii) Further writ in the nature of certiorari quashing the order of termination dated 23.7.2019 (Annexure-P-21) terminating the lease agreement dated 20.9.2018, the same being illegal, arbitrary and violative of Article 14, 19 and Article 229 of the Constitution of India and the provisions of the Indian Contract Act ;
- (iv) Further writ in the nature of mandamus directing the respondents No. 5 and 29 to pass and register the bus of the petitioner as per the provisions of the Motor Vehicle Act, 1988 ;

(v) Further writ in the nature of mandamus directing the respondents to implement the Lease Agreement dated 19/21.9.2018 executed between the Governor of Haryana and the petitioner for the purpose of taking the buses on lease, as the petitioner has purchased the bus and has altered the position and therefore, the respondents are estopped from rescinding the lease agreement dated 19-21.9.2018 in view of Article 229 of the Constitution of India and the provisions of the India Contract Act ;

(vi) Further during the pendency of the petition, the respondents be directed to issue the fitness certificate to the bus of the petitioner which had been purchased in pursuance to the lease agreement and till date has not been registered and is standing idle since their purchase i.e. for the last more than one year and the petitioner is paying the lacs of rupees as installment to the financial institution without having any fault on his part and further issue those permits for which buses were agreed to be taken on lease temporarily under the provisions of Section 104 of the Motor Vehicle Act 1988 without prejudice to the rights of the petitioner raised in the present petition seeking implementation of Lease Agreement entered between the petitioner and the Governor of Haryana ;

(vii) Any other relief which this Hon'ble Court may deem fit and proper in the present circumstances be passed in favour of the petitioner and against the respondents ;

(viii) And with a further prayer that the order dated 9.9.2019 passed in CWP No. 22884 of 2019 alongwith connected writ petitions may kindly be held to be applicable in the case of the petitioner being identical situated ;

(ix) Service of advance notices upon the respondents may be dispensed with ;

(x) Records of the case may kindly be called for.

(xi) Filing of certified copies of Annexures may kindly be dispensed with. ”

Notice of motion.

Mr. Deepak Balyan, Additional A.G. Haryana, accepts notice.

The main grievance of the petitioner is that on the basis of some vigilance inquiry report, a concluded contract executed for hiring the buses, for which he took a huge amount of loan from various banks, has been cancelled unilaterally, vide order dated 23.7.2019 without any notice or opportunity of hearing.

Shri Deepak Balyan, learned Additional A.G. Haryana accepts the factual assertion that the order dated 23.7.2019 cancelling the contract was passed without any notice or opportunity of hearing to the petitioner. On the basis of the instructions obtained by learned Advocate General, he further states that order dated 23.7.2019 shall be withdrawn and fresh order shall be passed after appropriate notice and proper opportunity of hearing to the petitioner.

It is also being made clear that the petitioner shall have opportunity while replying to the notice and participating in the proceedings to raise objection with respect to the vigilance inquiry report dated 26.6.2019 and once that objection is raised, appropriate decision shall be taken by the respondents in respect thereof by passing fresh orders.

In view of the aforesaid facts and circumstances, we dispose of this writ petition by providing that after recalling/setting aside the order dated 23.7.2019, the State (respondent) shall issue a notice to the petitioner within a period of one week from today giving appropriate time to file reply and thereafter fix a date for his personal appearance and hearing in the matter and thereafter pass appropriate orders. The entire exercise shall be carried out within a period of six weeks from today. It shall always be open to the petitioner to make an application under Section 104 of the Motor

Vehicles Act, 1988 before the appropriate authority during the pendency of the proceedings and, in case, any such application is made, appropriate decision thereon, in accordance with law shall be taken within ten days from the date of filing of the same.

With the aforesaid directions and discussions, the writ petition is disposed of.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

2.11.2019
sjks

Whether speaking order	:	Yes	/	No
Whether reportable	:	Yes	/	No