

CWP-31366-2018 (O&M)

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

**CWP-31366-2018 (O&M)
Date of decision : 17.07.2019**

Jitender Kumar

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Shubham Rana, Advocate for
Mr. Mohan Singh Rana, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

AMIT RAWAL, J. (ORAL)

The petitioners have invoked the jurisdiction of this Court under Article 226 of the Constitution of India for issuance of a writ in the nature of *mandamus*, directing the respondents not to proceed with the departmental inquiry, during the pendency of the criminal trial, in FIR No.12 dated 09.10.2018 registered under Section 7 & 13 of Prevention of Corruption Act, at Police Station SVB, Gurgram.

Learned counsel for the petitioner submits that in both departmental and criminal proceedings, most of the witnesses are common/identical. In case, the witnesses are examined in departmental proceedings, then it will affect their rights in defending the criminal proceedings. He relies upon notice of motion order dated 01.03.2013 passed in CWP No.3516 of 2013 titled as "Satbir Singh V/s State of

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Haryana and others”, whereby departmental proceedings were ordered to be kept in abeyance.

Mr. Hitesh Pandit, Addl. A.G., Haryana, submitted that there is no bar for continuation of departmental enquiry along with criminal case, which can be initiated and go side by side, but did not dispute the fact that few of the witnesses are common/identical in the proceedings.

This Court, vide order dated 13.12.2018, had already stayed the departmental proceedings qua common witnesses.

I have heard learned counsel for parties, appraised paper book and of view that since few of witnesses are common/identical in both the proceedings, the Department shall not examine the common/identical witnesses, until and unless, they examined in the criminal proceedings first, as there is perceptible apprehension of disclosing the defence.

It is made clear that in case, the petitioner is found to delaying in cross-examination of same set of the witnesses in the criminal proceedings, this order will not come in the way of the Department to examine the said witnesses.

With the aforesaid observations, the present writ petition stands disposed of.

17.07.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No