

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

**C.O.C.P.No.1083 of 2020 (O&M)**

**Date of Decision: August 06, 2020**

**Yoginder**

...Petitioner

Versus

**Isha Kamboj**

...Respondent

**CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Ramesh Goyat, Advocate,  
for the petitioner.

Mr. Sharad Aggarwal, AAG, Haryana,  
for the respondent.

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**MANOJ BAJAJ, J. (Oral)**

Petitioner has filed this petition against the respondent for the alleged willful disobedience of the order dated 18.09.2019 passed by this Court in Civil Writ Petition No.9799 of 2019. The operative part of the said order reads as under:-

*“In view of the undertaking given by the State counsel, instead of pondering upon merits and demerits of the matter, I dispose of the writ petition with direction to the Haryana Staff Selection to show videography recording of Physical Screening Test to the petitioner on 01.10.2019 at 11 AM on deposit of any usual expenses, if so required.”*

Learned counsel for the petitioner has submitted that the above direction issued by this Court has not been complied with by the respondent as the videography recording of physical screening test has not been shown to the petitioner on the given date, i.e., 01.10.2019. According to him, it

amounts to the contempt of the above order.

Notice of motion in the petition was issued by this Court on 15.06.2020 and pursuant to the same, response by way of affidavit of Isha Kamboj, HCS, Secretary, Haryana Staff Selection Commission, Panchkula, has been filed. According to the respondent, the said physical screening test was conducted on 23.06.2016 and later on, a case FIR No.189 dated 05.04.2018, under Sections 166, 167, 420, 465, 467, 468, 471 and 120-B IPC, Sections 7/8/10/12/13/15 Prevention Corruption Act and Section 66 Information Technology Act, 2008 was registered by CM Flying Squad, Panchkula and pursuant to the investigation, the videography of the test was recovered by police through recovery memo dated 5.4.2018 (Annexure R1/1). As per the reply, communications dated 21.11.2019 and 9.3.2020 were also sent by the commission to the agency which conducted the videography and requested to provide the copy of the videography. But, in response it was apprised by the agency that the said videography was not stored in the backup data.

At this stage, learned counsel for the petitioner contends that the Court had passed the order on the basis of the stand adopted by the Legal Assistant of the commission, who informed the Court about the availability of the videography.

Mr. Sharad Aggarwal, learned counsel appearing on behalf of the respondent has argued that the said stand was adopted on a belief that the videography was available, but actually the same had already been recovered by the investigating agency, therefore, the stand of the petitioner that the non-compliance of the order dated 18.09.2019 is willful is not correct. According to Mr.Aggarwal, the videography recording was

legitimately taken away by the investigating agency and, therefore, on account of this valid reason, the commission is unable to implement the order dated 18.09.2019.

After hearing the learned counsel for the parties, this Court finds that the non-compliance of the order dated 18.09.2019 cannot be construed as a deliberate or willful act on the part of the commission and sufficient reason has been explained by the respondent. The said videography of the physical screening test was with the agency, but as the same was taken by police during investigation, therefore, it was beyond the control of the commission to show the same to the petitioner.

Resultantly, there is no merit in this petition. The same is dismissed.

Rule issued against the respondent stands discharged.

**August 06, 2020**  
**ramesh**

**( MANOJ BAJAJ )**  
**JUDGE**

**Whether speaking/reasoned**  
**Whether Reportable:**

**Yes/No**  
**Yes/No**