

**IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
110 (PROCEEDINGS THROUGH V.C.)**

COCP-1184-2020

Date of decision: 01.07.2020

ISHWAR CHANDER AND ANOTHER

...PETITIONERS

V/S

SH. SUNIL SARAN

..RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. R.K.Arora, Advocate,
for the petitioners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

It is the contention of the learned counsel for the petitioners that in response to the notice served by one of the persons, namely, Arun Kumar, who was similarly placed as the petitioners, respondents asserted that his claim would be considered in case some order is passed in CWP No. 7312 of 2016 titled as Baldev Krishan Sharma vs. State of Haryana and others. The said writ petition was allowed by this Court vide order dated 17.11.2018 (Annexure P-2). Letters Patent Appeal preferred by the State i.e. LPA No. 1497 of 2019 was dismissed by the Division Bench of this Court on 06.09.2019.

Petitioners, thereafter, preferred CWP No. 17859 of 2019 titled as Ishwar Chander vs. State of Haryana and others, which was disposed of by this Court vide order dated 05.07.2019 (Annexure P-1) directing the

respondents to consider and decide the representation and legal notice within a period of three months from the date of receipt of certified copy of the order. There were certain other directions also issued with regard to the claim of the petitioners having been decided in their favour and in case of non-decision of the representation, the cost to be paid. Although the respondents have considered the claim of the petitioners but not within the time stipulated by this Court vide order dated 16.10.2019 (Annexure P-9) and order dated 18.10.2019 (Annexure P-10) respectively.

This, the counsel contends, is in violation of the reply which has been submitted by the respondents vide communication dated 16.08.2017 (Annexure P-7). Reference in this regard has been made to para-11 of the reply. He contends that the respondents have admitted the claim of the petitioner to be similar to that of Baldev Krishan Sharma and it was observed that if the High Court passes any order in favour of Baldev Krishan Sharma, then accordingly, the case of the petitioners shall also be considered on that basis. He contends that all the grounds, which have been pressed by the respondents for rejecting the claim of the petitioners, were duly considered by this Court while deciding CWP No. 7312 of 2016 titled as Baldev Krishan Sharma vs. State of Haryana and others, which was an identical matter, and not accepted. He, thus, contends that the respondents have committed contempt of this Court. That apart, he asserts that since the representation had to be decided within a stipulated period of time i.e. three months from the date of receipt of the certified copy of the order, cost of ₹50,000/- was to be paid to the petitioners but that also has not been paid. He, accordingly, prays that the respondents be punished for the contempt which they have committed.

I have considered the submissions made by the learned counsel for the petitioners and am of the view that there has been no adjudication on the claim of the petitioners by this Court as is apparent from the order dated 05.07.2019 (Annexure P-1) passed by this Court in CWP No. 17859 of 2019 titled as Ishwar Chander vs. State of Haryana and others.

The order, as is apparent, indicated that the claim of the petitioners had to be considered and decided within a period of three months from the date of receipt of certified copy of the order. There is no stipulated period therein as far as the payment of cost is concerned. That apart, in case the petitioners are aggrieved because of non-payment of the cost, they have an alternative remedy which they should avail instead of pursuing the present contempt petition.

As regards the claim of the petitioners that all the pleas, which have been taken rejecting the claim of the petitioners, stands duly considered by this Court in the writ petition preferred by Baldev Krishan Sharma, the same grounds when taken by the respondents for rejecting the claim of the petitioners would amount to contempt, suffice it to say that the said contention of the counsel for the petitioners is unacceptable as firstly, while responding to the representation/legal notice served by the petitioners vide communication dated 16.08.2017 (Annexure P-7), para No. 11 does not indicate the acceptance/admission of the respondents with regard to the claim of the petitioners being identical to that of Baldev Krishan Sharma SAS Part-I. What has been stated therein is only that their case shall be considered according to the case of Baldev Krishan Sharma.

If that be so, the reasons, which have been assigned for rejection, cannot be taken to be identical to that extent as would render the

action of the respondents contemptuous. In any case, as is observed above, there has been no adjudication on the claim of the petitioners on merits by this Court while passing the order dated 05.07.2019 in a writ preferred by them. Therefore, the action of the respondents cannot be said to be contemptuous.

In view of the above, this Court does not find any reason for initiating contempt proceedings against the respondents in the present contempt petition.

The contempt petition, therefore, stands dismissed.

These observations, which have been made by this Court, are not on merits of the claim of the petitioners as such and the petitioners are granted liberty to challenge the orders dated 16.10.2018 (Annexure P-9) and 18.10.2018 (Annexure P-10) before the appropriate Forum in accordance with law.

July 01, 2020

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No