

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-PIL-115-2020  
Date of decision: 10.9.2020

Tarsem Jodhan and another

... Petitioners

Versus

The State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,  
CHIEF JUSTICE  
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Baltej Singh Sidhu, Advocate,  
for the petitioners.

Mr. Gaurav Garg Dhuriwala, Senior DAG, Punjab  
(The aforesaid presence is being recorded through video conferencing  
since the proceedings are being conducted in virtual Court).

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ARUN PALLI, J. (ORAL)

The petitioners, who purport to have approached this Court in public interest, pray for a Mandamus commanding the respondents to entrust the investigation of FIR No. 194 dated 14.11.2018 under Sections 420/465/467/468/471/272/120-B IPC and Section 61 of the Punjab Excise Act, 1914 registered at Police Station Lalru, District SAS Nagar (Mohali); FIR No. 70 dated 17.5.2019 under Section 61 of the Excise Act, 1914, registered at Police Station Lalru District SAS Nagar (Mohali); FIR No. 13 dated 13.2.2020, under Sections 420/467/468/471/120-B IPC and Section 61 of the Punjab Excise Act, 1914, registered at Police Station Jodhan, District Ludhiana (Rural); FIR No. 50 dated 22.4.2020, under Sections 420/465/468/471/269 IPC, Section 61 of the Punjab Excise Act, and Section

5 of the Disaster Management Act, 2005, registered at Police Station Sadar Khanna, district Khanna; and FIR No. 54 dated 14.5.2020 under Sections 420/465/468/471/120-B/188/269 IPC, Sections 61/1/14 of the Punjab Excise Act and Section 10 of the Disaster Management Act, 2005 registered at Police Station Shambhu, District Patiala, in relation to rampant distillation of illicit/spurious liquor in the State and its sale, trade and even interstate smuggling, to the Central Bureau of Investigation (CBI).

Learned counsel for the petitioners submits that in the recent past, illegal distilleries, bottling plants and distillation of contraband liquor have increased manifold in Punjab. Resultantly, the liquor mafia, which is operative in the State, continues to thrive. And, a huge revenue loss is being caused to the State Exchequer. Not just that, a major tragedy struck the State in August, 2020, for owing to consumption of spurious liquor, many innocent lives **(117)** were lost. Those who survived have reportedly lost their vision. Further, though the occurrence was widely reported by the Print as also the Electronic Media and even discussed in the State Cabinet, but with no tangible results. Ostensibly, number of FIRs have been lodged by the State Police, but those are registered against petty labourers, workers and bootleggers. Whereas, to run a racket of this magnitude, lot of finances, infrastructures and logistic support is necessary at all levels. Something, which is inviable without active connivance of the district police officials, administration and patronage of local political leaders.

Thus, it is submitted that in the given circumstances, the fair probe/investigation shall only be possible if the matter is entrusted to CBI. In support of his submissions, learned counsel for the petitioners has also placed reliance on various decisions of the Supreme Court:-

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- 1) State of West Bengal and others Vs. The Committee for Protection of Democratic Rights West Bengal and others, 2010 (2) RCR (Criminal) 141
- 2) Vishwanath Chaturvedi Vs. Union of India and others, (2007) 2 RCR (Criminal) 363
- 3) Rubabbuddin Sheikh Vs. State of Gujarat, 2010 (1) RCR (Criminal) 738
- 4) Bachittar Singh Vs. State of Punjab and others (CWP No. 31506 of 2019, date of order 11.8.2020)
- 5) Rhea Chakraborty Vs. State of Bihar (Transfer Petition (Criminal) No. 225 of 2020, decided on 19.8.2020.

We have heard learned counsel for the petitioners and perused the paper book.

It would be apposite to point out here itself that similar concerns were raised in two other identical writ petitions, [CWP-(PIL)-102-2020 (Parampreet Singh Bajwa[Advocate] Vs. State of Punjab and others)], and CWP-(PIL)-108-2020 (Panditrao Dharennavar Vs. State of Punjab and others)], filed in public interest. However, for on an analysis of the matter, we were disinclined to entertain those petitions, at that stage, as also for the representations submitted by the petitioners were pending consideration, vide orders dated 17.8.2020 and 18.8.2020, we disposed of the matter with liberty to the petitioners to pursue their representations with the State authorities. And, as even the learned State Counsel, appearing for the respondents, had assured the Court that grievances of the petitioners shall be looked into and if necessary, appropriate action or order shall be passed.

The position is not any different in the matter at hands either.

For the legal notice dated 27.6.2020 (Annexure P-10), the respondents have

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been served with, is under consideration. Further, a letter (Annexure P-9), written by Sh. Shamsheer Singh Dullu, Member Parliament (Rajya Sabha), addressed to the Chief Minister, Punjab, has also been appended with the petition, wherein similar issues have been raised and immediate intervention by the State authorities is prayed for. Which, we presume, is also drawing the attention of the State Government. Undoubtedly, concern of the petitioners for the State and its subjects is appreciable. But it is also true that the police authorities, upon taking cognizance of numerous incidents/instances that occurred in different parts of the State, have registered FIRs, made arrests and have even effected recoveries. And, investigation is in progress. No cogent or conclusive material is placed before us, at least, **at this stage**, on the basis of which, we could form an opinion that on-going investigation is a farce or misdirected by design or lacked credibility. But, we may hasten to add or clarify that neither are we recording our satisfaction, nor a finding as regards the investigations in progress being just, fair and credible. Of course, the question is kept open to be examined on merits, if the situation so warrants/requires, at an appropriate stage. Likewise, the positive case set out in the petition is that liquor mafia, involved in distillation of spurious liquor with the aid/assistance of police officials, administration and even political leaders, was operative in the State. But, no conclusive and credible material has been placed on record against any particular individual(s) either.

It would be apposite, at this juncture, to even refer to the observations recorded by the Supreme Court in ***Secretary, Minor Irrigation and Rural Engineering Services, U.P. and others v. Sahngoo Ram Arya and another*** 2002(5) SCC 521, in paragraph 6 of its judgment.

*“6. ....Therefore, it is clear that a decision to direct an inquiry by the CBI against a person can only be done if the High Court after considering the material on record comes to a conclusion that such material does disclose a prima facie case calling for an investigation by the CBI or any other similar agency, and the same cannot be done as a matter of routine or merely because a party makes some such allegations. In the instant case, we see that the High Court without coming to a definite conclusion that there is a prima facie case established to direct an inquiry has proceeded on the basis of 'ifs' and 'buts' and thought it appropriate that the inquiry should be made by the CBI. With respect, we think that this is not what is required by the law as laid down by this Court in the case of Common Cause (supra).”*

In so far as the decisions rendered by the Supreme Court, which have been relied upon by learned counsel for the petitioners: suffice it to say that there cannot be any quarrel with the proposition and the position of law enunciated therein. However, it would be apposite to refer to certain observations recorded by the Constitution Bench of the Supreme Court in State of West Bengal and others (supra), particularly as regards the scope and extent of interference by the High Courts in matters where investigation by the CBI or an independent agency is prayed for:-

*“46. Before parting with the case, we deem it necessary to emphasise that despite wide powers*

*conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these Constitutional powers. The very plenitude of the power under the said Articles requires great caution in its exercise. In so far as the question of issuing a direction to the CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extra-ordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise the CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.”*

But, as indicated earlier, we are dissuaded, at this stage, to entertain this petition. And, instead, consider it expedient, **in the first instance**, to require the respondent authorities to address the grievances/concerns of the petitioners and pass appropriate/suitable orders.

Mr. Gaurav Garg Dhuriwala, learned Senior Deputy Advocate General, Punjab, as in the earlier two cases, referred to above, assures the Court that the grievances/concerns of the petitioners, as set out in their legal

notice dated 27.6.2020 (Annexure P-10), shall be duly examined and dealt with, and appropriate orders shall be passed, at the earliest, and if necessary, even a suitable action shall be initiated.

We are sanguine that fair and impartial investigations shall be carried out by the State agencies to provide credibility and instill confidence in the investigating process. The petition is accordingly disposed of in terms of the statement/undertaking submitted by the learned State Counsel.

**(RAVI SHANKER JHA)**  
**CHIEF JUSTICE**

**(ARUN PALLI)**  
**JUDGE**

**September 10, 2020**  
AK Sharma