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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.31770 of 2020 (O&M)

Date of decision: 17.11.2020

Manpreet Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. D.S. Virk, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

On 16.10.2020, the following order was passed by this
Court:-

“Inter alia contends that in view of the Notification dated 29.12.1986 (P-2), the SDO, DHBVN, Kalanwali is not authorized as Gazetted Officer under the provisions of NDPS Act.

Faced with the situation, learned State counsel seeks time to have instructions or file reply.

On his request, adjourned to 17.11.2020.”

Reply by way of affidavit of the Assistant Superintendent of Police, Kalanwali, Sirsa, is on record.

Para 4 of the said reply, reads as under:-

“4. That in reply to para No.4 of the petition it is submitted that while disposing of the CRM-M No.5074 of 2019 titled as “Joginder Singh vs State of Punjab” and other seven petitions relating to the cases under the NDPS Act. On 28.05.2019 this Hon'ble Court was pleased to issue the following directions:-

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“It is further directed that a list of the empowered Gazetted Officers other than the police officers, alongwith their mobile numbers, in consultation with the Deputy Commissioner of the concerned District, will also be prepared in PDF format and will be given to all the Investigating Officers so as to call a Gazetted Officer during the investigation.”

In compliance of the aforesaid directions issued by this Hon'ble Court, the Deputy Commissioner, Sirsa vide order No.15729-15764/MA dated 17.09.2019 has prepared the list of empowered Gazetted Officer of Sirsa district alongwith their mobile numbers. That in the present case the search was conducted in the presence of Ravi Kumar, SDO, DHBVN, Kalanwali, District Sirsa who has been enlisted as empowered Gazetted Officer by the Deputy Commissioner Sirsa vide order No.15729-15764/MA dated 17.09.2019. The name of Ravi Kumar, SDO, DHBVN, Kalanwali, District Sirsa figures in the list prepared by the Deputy Commissioner Sirsa. In this way this officer was a competent/empowered officer on the date of recovery in the present case.”

Counsel for the State has submitted that the aforesaid directions was issued in view of Section 42 of the NDPS Act which empowers the State Government by general or special order to appoint any such officer, being an officer superior in rank to Peon, Sepoy or Constable of the Revenue, Drugs Control, Excise, Police or ***any other department of the State Government*** to exercise the power under Section 42 of the NDPS Act for search, seizure or arrest even without warrant or authorization.

Counsel for the State has further submitted that in view of the non-availability of the officers as per the notification of 1986

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(Annexure P2), the aforesaid directions were given by this Court in CRM-M No.5074 of 2019 and in compliance thereof, the Deputy Commissioner, Sirsa has designated the Gazetted Officers for the purpose of Section 50 of the Act.

Counsel for the has also argued that as per Section 50 of the Act, it is provided that when an officer authorized under Section 42 of the Act, is about to search any person under the provisions of Sections 41, 42 or 43, he shall, if such person so requires, take such person without unnecessary delay to the nearest Gazetted Officer of any of the departments mentioned in Section 42 or to the nearest Magistrate.

Counsel for the State, thus, argued that in compliance of the directions, the Deputy Commissioner, Sirsa, has rightly nominated the Gazetted Officers.

As per the affidavit, the petitioner is involved in 02 more FIRs wherein he is facing the trial under the NDPS Act and therefore, considering the rigor of Section 37 of the NDPS Act, counsel for the petitioner seeks permission to withdraw this petition.

Dismissed as withdrawn.

A copy of this order be sent to the District & Sessions Judge, Sirsa, for information.

(ARVIND SINGH SANGWAN)
JUDGE

17.11.2020

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No