

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.16802 of 2020
Date of decision: 05.11.2020

Sandeep Jindal

.... Petitioner

Versus

Union of India and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Aalok Jagga, Advocate
for the petitioner.

KARAMJIT SINGH, J.

The petitioner has filed this writ petition under Article 226/227 of the Constitution of India with the prayer to issue a writ in the nature of certiorari, quashing letter dated 23.07.2020 (Annexure P-30), issued by respondent No.2, vide which the petitioner has been indicted without complying with the principles of natural justice, with further direction to respondent No.2 to examine and enquire into the representation dated 10.08.2020 (Annexure P-31) submitted by the petitioner in this regard.

2. The case of the petitioner as pleaded in the petition is that he is aggrieved of the impugned letter (Annexure P-30), vide which respondent No.2 has recommended registration of criminal case against the petitioner, he being the Director of M/s. Jindal Speciality Textile Limited and M/s. Jindal Medicot Limited, on the basis of one complaint. The petitioner being Director of aforesaid two

companies had floated SPV-Special Purpose Vehicle-Himachal Textile Park Limited, on the ground that the industry was already in existence over the pieces of land, even prior to the submission of the Detailed Project Report (DPR), for setting up of the Integrated Textile Park. The aforesaid complaint was lodged by persons having vested interest. In the complaint, it was alleged that under the scheme for Integrated Textile Park, SPV-Himachal Textile Park was to purchase vacant land, carry out fresh construction and was only then eligible for the grant, to be provided by respondent No.1. There were also allegations in the complaint that the Government's grant was obtained by the petitioner on an already existing Textile Park and by not purchasing fresh vacant land and by not setting up a fresh Integrated Textile Park. The complaint was totally false. Respondent No.1 repeatedly carried out various inspections, right from inception and has certified the fresh setting up of the industrial park, stage by stage. Not only this, on 01.06.2012, nominee Directors of the Ministry and the Project Management Committee, were appointed on the Board of Directors of the SPV, which was raising new construction. In spite of all these verifications, in the year 2019-20, respondent No.2 made recommendation (Annexure P-30) for registration of criminal case against the SPV, which is being floated by the aforesaid two companies, of which the petitioner is Director, on the ground that the Textile Park was already in existence. No opportunity of hearing was given to the petitioner before the abovesaid recommendation was made by respondent No.2 for registration of the criminal case.

Hence, this petition seeking quashing of letter dated 23.07.2020 (Annexure P-30). The prayer is also made that respondent No.2 be given directions to examine the representation dated 10.08.2020 (Annexure P-31), given by the petitioner in this regard.

3. We have heard learned counsel for the petitioner.

4. The main grievance of the petitioner is that the impugned letter (Annexure P-30) was issued by respondent No.2, at the back of the petitioner, without providing him any opportunity of hearing. Learned counsel for the petitioner argued that the allegations levelled by respondent No.2 against the petitioner in Annexure P-30 are false. The petitioner was not afforded any opportunity to refute the same. Learned counsel for the petitioner further contended that in the given circumstances, the impugned letter (Annexure P-30) deserves to be quashed. In alternative, learned counsel for the petitioner prayed that respondent No.2 be directed to consider and decide his representation (Annexure P-31).

5. We have considered the submissions made by the learned counsel for the petitioner.

6. Impugned letter (Annexure P-30), which is under challenge was written by respondent No.2 to the Station House Officer, Police Station, Tehsil Amb, District Una (Himachal Pradesh) with request to lodge FIR against SPV of Himachal Textile Park Ltd., UP Mahal Ram Nagar, VPO Thathal, Tehsil Amb, District Una (Himachal Pradesh) and Project Management Consultant (PMC), i.e. C.S. Associates, for submitting false and fabricated documents for

sanction under SITP scheme, suppressing material facts and producing misleading information at time of the sanction. In the said letter, M/s. Jindal Medicot Limited and M/s. Jindal Speciality Textile Limited were also named as accused. It is not disputed that the petitioner is the Director of both the said companies.

7. As per Section 41(d) of The Specific Relief Act, 1963 (for short 'the Act'), no injunction can be issued to restrain a person from instituting or prosecuting any proceeding in criminal matter. The present case is covered under the aforesaid statutory bar provided under Section 41(d) of the Act. The Court cannot restrain respondent No.2 from instituting any criminal proceedings.

8. It is also settled law that rule of Audi Alterm Partem cannot be applied to defeat the ends of justice. The alleged wrong doer has no right to have any say in the matter, at this premature stage. In **Samaj Parivartan Samudaya and others vs. State of Karnatka and others 2012 (7) SCC 407**, the Hon'ble Apex Court observed that there is no provision in the Code of Criminal Procedure, wherein investigating agency must provide a hearing to the affected party before the registration of FIR or even before carrying on investigation prior to registration of a case against the suspect.

9. In light of the above, we are of the view that in the present case, before the issuance of letter (Annexure P-30), it was not necessary for respondent No.2 to grant opportunity of hearing to the petitioner. The petitioner has got no cause of action to impugn letter

(Annexure P-30), at this early stage.

10. Consequently, the petition filed by the petitioner being meritless, is hereby dismissed.

**(RAJAN GUPTA)
JUDGE**

**(KARAMJIT SINGH)
JUDGE**

05.11.2020

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No