

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201

CWP-12640-2020 (O&M)
Date of decision: 18.02.2021

Bir Devinder Singh

.....Petitioner

versus

State of Punjab and others

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. R.S. Bains, Advocate
for the petitioner.

Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab.

Mr. S.P. Jain, Additional Solicitor General with
Ms. Saigeeta Srivastava, Central Govt. Counsel
for respondent No.4-UOI.

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video-conferencing on account of restrictions due to outbreak of pandemic COVID-19.

Petitioner-Bir Devinder Singh s/o Pritpal Singh, stated to aged approximately 72 years, has filed the present petition *inter alia* with the following prayer:-

“Petition under Article 226 of the Constitution praying for a writ, order or direction quashing the impugned orders dated 23.06.2020 (Annexure P-32) by which personal security cover has been withdrawn in the petitioner has been directed to seek security cover on payment basis, even though, the security file of the petitioner reveals continuous threat to his life because of his political activities and he had been in the past subject to

dangerous criminal attack in which even life of the security personal has been lost, and earlier also the state had withdrawn the security which was restored due to the orders of this Hon'ble High Court dated 20.07.2012 to 26.07.2013 in CWP-22803-2010 (Annexure P-1 to P-5) vide which the security granted to the petitioner because of extreme threat perception was restored and now again it has been withdrawn without any change of events except public statements by the petitioners as part of his public duty, which has annoyed the Chief Minister and therefore the Additional Chief Secretary and the DGP has acted in concert to withdraw the security cover to the petitioner leading to threat to his life and of his family.”

Learned counsel for the petitioner, by making reference to the pleadings in the petition, submits that the petitioner was constrained to file CWP No.22803 of 2010. By making reference to para 2 of the petition, learned counsel submits that the said Civil writ petition was ultimately dismissed as infructuous because of the grant of adequate security to the petitioner. He submits that he apprehends that because of certain pleadings which are inter alia made in para 3 of the petition, two gunmen have been withdrawn vide order dated 26.05.2020. The present writ petition has been filed on 03.08.2020 wherein, it has been pleaded that on 25.06.2020, the third PSO namely Jaspal Singh was also told telephonically to report back immediately to P.A.P. 36 Batallion, Bahadurgarh, Patiala. This left the petitioner without any security cover. Accordingly, the petitioner filed the present writ petition.

This Court, on 25.08.2020, issued notice of motion and passed the following order:-

“Learned counsel for the petitioner herein would contend that despite having been provided more than adequate security since 2018, his security cover by the State of Punjab has been withdrawn unilaterally on State expenses vide impugned order dated 23.06.2020 and as of now he has no security personnel with him, while further submitting that ex-MLAs as on date have been provided a minimum of two security personnel which he would also be entitled to as well apart from other security personnel.

Notice of motion for 02.09.2020.

Ms. Lavanya Paul, AAG, Punjab accepts notice through video conferencing on behalf of respondent Nos. 1 to 3 and seeks time to file reply.

Let notice to respondent No. 4 be issued for the date fixed.

Reply, if any be filed with an advance copy to learned counsel for the petitioner on or before the date fixed.

In the meantime, limited to the next date of hearing, the petitioner would be entitled to two PSOs, given the fact that ex-MLAs have been allowed the same.”

From the perusal of the order dated 25.08.2020, it is evident that a direction was given to provide two PSOs to the petitioner.

During the resumed hearing of the case today, this Court has been informed that in compliance of the said order, two PSOs were provided and the petitioner, since then, has been under the security cover of two PSOs.

In response to the notice of motion, a short reply dated 01.09.2020 was filed by way of affidavit of Sh. Paramdip Singh Sandhu, PPS, AIG Security, Punjab, Chandigarh, on behalf of respondents No.1 to 3.

In the said affidavit, it has been inter alia submitted that vide order dated 26.08.2020 (Annexure R-1), two PSOs (whose names and particulars

have also been mentioned), had been provided to the petitioner. It has also *inter alia* submitted in the affidavit that as per the norms laid down in the State Security Policy, notified on 02.09.2020, positional security (1-2 PSOs) is to be provided to former CPs, MPs & MLAs only for a period of 3-5 years on the basis of current threat perception. It is then pleaded that the last term of the petitioner as MLA got completed in 2007. Therefore, according to the above mentioned State Security Policy, the petitioner is not entitled to any positional security cover as an ex-MLA.

Records of the case however show that this Court, thereafter on 02.09.2020, 17.09.2020 and 27.10.2020, had further issued directions to the State Government to examine the threat perception also and provide the list of number of persons, who have been provided security beyond the State Security Policy 2013.

Today, on the resumed hearing of the case, it has been brought to the notice of this Court that two security personnel were provided to the petitioner vide order dated 26.08.2020, who are continuing till date.

This Court therefore finds that substantial relief has been granted to the petitioner. However two issues as stated by both learned counsel remained to be examined. Firstly, learned counsel for the petitioner submits that in fact with only two personnel, out of which if one goes on leave, it is not possible to keep one security officer to be on duty for 24 hours. Therefore, as per petitioner, it will be more appropriate that three security personnel be provided. Secondly, on the other hand, learned State counsel submits that the Competent Authority should be given liberty to periodically examine the threat perception and accordingly issue orders from time to time.

In the peculiar facts and circumstances as noticed above, the present writ petition is disposed of with the following directions:-

- (i) DGP, Punjab is directed to constitute a committee of officers to examine various issues including the issue as involved in the present case which may have arisen over 7-8 years of framing of the last policy on 02.09.2013. The recommendations of the said Committee be examined by the Competent Authority and placed before the framers of the policy/the present Competent Authority to issue a revised uniform policy that should be made applicable to all without any discrimination.
- (ii) Till the recommendations by the Committee and decision by the State Government to latest issued policy with or without modifications as per the recommendations of the Committee of DGP, the petitioner shall continue to be provided with the security cover as directed by this Court vide order dated 25.08.2020.

Ordered accordingly.

(GIRISH AGNIHOTRI)
JUDGE

18.02.2021
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Whether speaking/ reasoned:	Yes/No
Whether Reportable:	Yes/No