

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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IN VIRTUAL COURT

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**CWP No. 4563 of 2020
Date of decision : 10.3.2022**

Jasbir Singh

.....Petitioner

Vs.

**Regional Provident Fund Commissioner, Punjab & UT, Chandigarh and
others**

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Abhinav Gupta, Advocate, for the petitioner

Rajbir Sehrawat, J. (Oral)

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ of mandamus, directing respondent No.2 to take action against delinquent officials of respondent department in compliance of recommendation made by respondent No.3 vide report dated 18.3.2016 (Annexure P-5) as they tried to falsely implicate the petitioner in a criminal case; on account of the petitioner being a complainant in FIR No. 27 dated 30.11.2015 under Section 120B IPC and Section 7 of Prevention of Corruption Act, 1988. It is further prayed that respondent No.3 be directed to take action upon its own recommendations by registering a regular criminal case against the officials of respondent No.1 for committing the offences for which they were found responsible during the enquiry.

It is submitted by the counsel for the petitioner that the petitioner; being legal advisor of an establishment; was approached by the official of Employees Provident Funds Organisation -respondent No.1 for corruption

money. The petitioner had then informed the CBI. Accordingly, a trap was laid. Thereafter, two officials namely; Bachittar Singh and Vijay Rawat were caught red handed. As a result, FIR No. 27 dated 30.11.2015 was registered under Section 7 of the Prevention of Corruption Act, 1988 at Police Station CBI, ACB, Chandigarh. Counsel has further submitted that since the petitioner is the complainant and a witness in the above said case, therefore, the officials of the EPFO attempted to falsely implicate the petitioner in a criminal complaint filed before SHO, Police Station Sector 17, Chandigarh. However, the Chandigarh Police found the complaint to be false. The petitioner has also reported this aspect to the CBI, Chandigarh. Even the CBI in its enquiry found the complaint made by the EPFO officials against the petitioner, to be false and an attempt to falsely implicate the petitioner. Accordingly, the departmental action was recommended by the CBI against the above said officials of EPFO. However, despite the recommendations of the CBI, no departmental action has been taken against the above said officials. Hence, the present petition.

Having heard counsel for the petitioner and having perused the case file, this Court does not find any ground to interfere in the matter. Undisputedly, the above said officials of the EPFO are accused in the corruption case on a complaint filed by the petitioner. Although the said FIR is pending since the year 2015, however, the trial has not been concluded as yet. But the petitioner has asserted that most of the prosecution witnesses already stands examined in the criminal case. Hence, whatever is the evidence on the file, undoubtedly, that will be assessed by the trial Court in the FIR case. But the petitioner cannot draw any leverage out of the pendency of the said FIR qua his private grievance as such. The complaint, if any, against the petitioner is an

independent fact, which is to be seen independently.

Although counsel for the petitioner has submitted that the Chandigarh Police have enquired into the complaint filed by the above said EPFO officials against the petitioner; and have found the petitioner to be innocent, however, the petitioner has not been able to refer even to any FIR registered against the petitioner on the complaint of the EPFO officials. Unless the Chandigarh Police had registered a case, it had no business to declare the petitioner as innocent or guilty. Hence, it is obvious that the allegations levelled by the said EPFO officials against the petitioner have gone un-investigated. Whatever be the worth of those allegations, however, the fact remains that no investigation has been conducted in the same, as per the law, by the Chandigarh Police. Similar is the situation qua the alleged enquiry conducted by the CBI into the complaint of the EPFO officials made against the petitioner. Although the petitioner is stated to have approached CBI asserting the falsity of the complaint, however, even CBI has not conducted any investigation in the matter as such. Therefore, every aspect of the alleged complaint made by EPFO officials is still un-investigated; as per the law. Moreover, counsel for the petitioner has failed to show any provision under which the CBI can make any recommendation for initiation of the departmental proceedings against the above said officials. In view of this factual situation mere recommendation of the CBI to initiate departmental action against the concerned EPFO officials cannot be taken as any legal step to get the above said officials punished departmentally. It deserves to be noted at the cost of repetition that the CBI is already the prosecution agency in the FIR case. It has taken long time of 7 years to complete the prosecution evidence. On the one

hand, CBI did not complete the prosecution evidence in due time and, on the other hand, now it is trying to get initiated an action against the above said officials in another matter. The possibility of bias on the part of the CBI against the above said officials cannot be ruled out in this conspectus of the facts.

So far as the personal grievance of the petitioner is concerned, undisputedly, he is not the employee of the department. He is not any officer of the department. Therefore, he, as such, has no right to get any departmental proceedings initiated against anyone of the above said employees. However, if the petitioner asserts that he was threatened by any EPFO official or that any attempt was made by the above said officials to falsely implicate the petitioner in any case, then he is not remediless. Being an advocate, the petitioner is supposed to be aware of the legal remedies available to him under the law under such circumstances. However, the petitioner has not chosen to avail any such remedy. Rather, the petitioner has tried to rake-up a collateral issue through the collateral proceedings; by way of present petition.

In view of the above, finding no merit in the present petition, the same is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

10.3.2022

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No