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

**CWP No.6646 of 2022(O&M)
Date of Decision: 30.03.2022**

Sh. Gurdev Singh

.....Petitioner

Vs

Advocate Genera Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Siddharth Sanwaria, Advocate
for the petitioner.

Mr. Vivek Chauhan, Addl., A.G., Haryana.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this writ petition under Article 226 read with Article 215 of the Constitution of India read with Section 482 Cr.P.C, invoking inherent power of this Court and seeks indulgence of this Court for issuance of following directions:-

(a) *Kindly issue the writ in nature of Mandamus by issuing directions to the respondent No.1 to adjudicate the application (P-18) dated 30.11.2021 lodged by the petitioner against the respondent No.2.*

(b) *Further prayer for a direction to the concerned respondent No.1 to proceed in*

accordance with law and initiate appropriate steps to adjudicate the application (P-18) dated 30.11.2021.

(c) Kindly exempt the petitioner from filing the certified copy of the Annexure P-1 to P-36 and allow the petitioner to place on record the true typed/translated copies of the Annexure P-1 to P-36, in the interest of justice.

(d) Dispense with issuance of advance notice of motion.

(e) Dispense with the provisions of Section 90 of Civil Procedure Code as the respondents have been provided with sufficient time beyond the prescribed mandatory period of two months.

(f) Any other order or direction may also be issued under the facts and circumstances of the case, as deemed fit by the Hon'ble Court.

[2]. Apparently, the petitioner has prayed for issuance of a writ in the nature of mandamus, directing respondent No.1 to adjudicate the application under Section 15 of the Contempt of Courts Act, 1971 filed by the petitioner before respondent No.1 for initiating motion against respondent No.2 i.e. Advocate General himself for criminal contempt in view of allegations contained therein.

[3]. In para No.1 of the aforesaid application, the petitioner has pleaded that he is adhering to the maxim “*nemo index in causa sua*” means no one can be judge of his own cause. Despite that the application was filed before the Advocate

General himself for initiating motion against himself for criminal contempt. The application in question has been filed under Section 15 of the Contempt of Courts Act, 1971 which reads as under:-

“15. Cognizance of criminal contempt in other cases.—

(1) In the case of a criminal contempt, other than a contempt referred to in section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by—

(a) the Advocate-General, or

(b) any other person, with the consent in writing to

the Advocate-General, ³ [or]

³ [(c) in relation to the High Court for the Union territory of Delhi, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf, or any other person, with the consent in writing of such Law Officer.]

(2) In the case of any criminal contempt of a subordinate court, the High Court may take action on a reference made to it by the subordinate court or on a motion made by the Advocate-General or, in relation to a Union territory, by such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(3) Every motion or reference made under this section shall specify the contempt of which the person charged is alleged to be guilty.”

[4]. Perusal of the aforesaid section would show that the Supreme Court or the High Court may take action on its own motion or on a motion made by the Advocate General or any other person with the consent in writing of the Advocate General

or in relation to the High Court for Union Territory of Delhi, such like officer as the Central Government may by notification in the official gazette specified in his behalf or any other person with the consent in writing of such law officer.

[5]. Evidently, this Court can take action either suo moto or on a motion made by the Advocate General. The prayer in terms of application under Section 15 of the Contempt of Courts Act, 1971 (Annexure P-18) is not for seeking any reference/motion by the Advocate General.

[6]. Admittedly, no one can be judge of his/her own cause, therefore, filing of the application under Section 15 of the Contempt of Courts Act before the Advocate General himself for initiating any action against him is not maintainable and is not covered by the spirit of Section 15 of the Act and such a situation does not arise in the present case.

[7]. Learned counsel for the petitioner refers to Rule of the Rules to regulate proceedings for contempt of Supreme Court, 1975. According to this section, the Court may take action in case of contempt other than the contempt referred to Rule 3 either suo moto or on a petition made by Attorney General or Solicitor General or on a petition made by any person and in case of criminal contempt with the consent in writing of Attorney General or Solicitor General.

[8]. Apparently, the aforesaid Rule is not applicable as the same relates to Contempt of Supreme Court, for which Rules were enacted called as the Rules to regulate proceedings for Contempt of Supreme Court, 1975.

[9]. Learned counsel for the petitioner has tried to address arguments on the procedure adopted while appointing law officers in the office of Advocate General, Haryana with reference to some precedents.

[10]. I afraid no such issue is directly involved in the case as the prayer is only to the extent of seeking adjudication of the application under Section 15 of the Contempt of Courts Act, 1971. The prayer does not fall strictly in terms of Section 15 of the Contempt of Courts Act, 1971.

[11]. In view of above, this petition is found to be totally devoid of merits and is accordingly dismissed.

30.03.2022

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No