

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

COC-1796-2019
Date of Decision: 29.10.2022

Dayanand

..... Petitioner

Versus

Amit Khatri, Deputy Commissioner, Gurugram

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Aman Priye Jain, Advocate
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

HARSH BUNGER J.

The present contempt petition has been filed by the petitioner under the Contempt of Courts Act, 1971 (for brevity 'the Act'), *inter alia*, praying for punishing the respondent for allegedly having committed contempt of this Court by wilfully violating order dated 14.11.2018 (Annexure P-1) passed by this Court in CWP-23800-2018.

The relevant portion of order dated 14.11.2018 (Annexure P-1) is quoted as under:

“In view of the above, without advertting to the merits of the case, the present petition is disposed of with a direction to respondent No.2-Deputy Commissioner, Gurugram to consider and decide the

representation/ letter dated 28.5.2018 (Annexure P-5) within six weeks from the receipt of the certified copy of the order. In case, on consideration, the competent authority reaches to the conclusion that the benefit claimed by the petitioner is admissible to them, in such eventuality, the consequential relief be allowed to him, within a period of six weeks thereafter. However, in case the competent authority feels that the relief claimed by the petitioner is not admissible or made out, in that case, a speaking order be passed in the matter.”

It is, *inter alia*, stated in the present petition that the petitioner sent a letter dated 08.02.2019 (Annexure P-2) to the respondent along with copy of said order dated 14.11.2018 passed by this Court, which was delivered to him on 13.02.2019, however no action was taken. Accordingly, it has been submitted that the respondent has rendered himself liable for punishment under the Act.

Vide order dated 14.05.2019, learned counsel for the petitioner was directed to supply a copy of the petition to learned counsel for the State to enable him to verify and seek instructions qua the averments made in the present contempt petition. Thereafter on 16.03.2020, the respondent was directed to file the Compliance Report, failing which, he was directed to remain present in Court. When the present petition was listed on 07.07.2022 after a long gap caused by the intervening Covid-19 pandemic period, learned counsel for the State made a statement that order dated 14.11.2018 passed in CWP-23800-2018 has been complied with. However he sought time to file the Compliance Report.

On 08.08.2022, the Status-cum-Compliance Report was filed

and taken on record by way of an Affidavit dated 12.07.2022 of Mr. Nishant

Kumar Yadav, IAS, Deputy Commissioner, Gurugram, wherein it was stated that he had joined as the Deputy Commissioner, Gurugram on 10.02.2022. In the said Affidavit, it was further stated that *“in compliance of order dated 14.11.2018, the complaint was inquired again through Additional Deputy Commissioner, Gurugram. It is submitted that in pursuance of inquiry report dated 09.06.2022, direction has been issued to Block Development and Panchayat Officer, Gurugram vide letter dated 12.07.2022 (Annexure R-1) to register a FIR accordingly, under Prevention of Corruption Act.”* Letter dated 12.07.2022 (Annexure R-1) reads thus:

“From

*Deputy Commissioner,
Gurugram.*

To

*Block Development & Panchayat Officer,
Gurugram.*

No.110/C.C.

Dated:12.07.2022

Sub.: COCP No.1796 of 2019 titled as 'Dayanand Vs. Amit Khatri, I.A.S., Deputy Commissioner, Gurugram.

On the subject cited above, it is intimated to you that as per detailed enquiry report dated 09.06.2022 submitted by Additional Deputy Commissioner, Gurugram, Sh. Lakhan Singh, the then Sarpanch and Sh. Bhagat Singh, the then Gram Sachiv, found guilty of embezzled the Panchayat fund.

Therefore, it is directed that a FIR against Sh. Lakhan Singh, the then Sarpanch and Sh. Bhagat Singh, the then Gram Sachiv, under Prevention of Corruption Act be registered with immediate effect under the intimation of the office of undersigned.

Sd/-

*Deputy Commissioner,
Gurugram.”*

Learned counsel for the petitioner has contended that although in compliance of order dated 14.11.2018 (Annexure P-1) passed by this Court in CWP-23800-2018, the Deputy Commissioner, Gurugram has directed registration of FIR against Sh. Lakhan Singh, the then Sarpanch, Village Sikhopur, Tehsil Manesar, District Gurugram and Sh. Bhagat Singh,

the then Gram Sachiv, however there has been a gross delay in complying with the said order on part of the respondent.

On the other hand, learned counsel for the State fairly states that the delay in complying with order dated 14.11.2018 (Annexure P-1) was beyond his control on account of outbreak of Covid-19 pandemic, when the entire country was put under lockdown.

Having considered the submissions of the parties, it is pertinent to note that Section 2(b) of the Act defines “civil contempt” as meaning wilful disobedience to any judgment, order etc. of a Court. The said Section 2(b) of the Act, *ibid* is quoted below:-

“ 'Civil contempt' means wilful disobedience to any judgment, decree, direction, order, writ or other process of a Court or wilful breach of an undertaking given to a Court. ”

The word used in Section 2(b) of the Act is “**wilful disobedience**”, which means knowingly intentional, conscious, calculated and deliberate with full knowledge of consequences flowing therefrom and it excludes casual, accidental, *bona fide* or unintentional acts or genuine inability. This view has been held by Hon'ble the Apex Court in “**Ram Kishan Vs. Sh. Tarun Bajaj and others**”, 2014(3) PLR 765.

From letter dated 12.07.2022 (Annexure R-1), it is manifested that in compliance of order dated 14.11.2018 (Annexure P-1), the Deputy Commissioner, Gurugram has directed registration of FIR.

Although there has been some delay in complying with order dated 14.11.2018 (Annexure P-1) passed by this Court in CWP-23800-2018, however one cannot ignore the compelling circumstances arisen out of the Covid-19 pandemic.

Taking all facts and circumstances into consideration, I am satisfied that there is no wilful delay or disobedience on the part of the respondent in complying with the direction issued by this Court in the aforesaid order dated 14.11.2018 (Annexure P-1).

Resultantly, the present contempt petition is dismissed.

29.10.2022*Apurva***(HARSH BUNGER)
JUDGE**

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No