

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

119

CWP-18868-2022

Date of decision: 26.08.2022

SATYAWAN AND ORS

.....Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Pardeep Sihmar, Advocate
for the petitioners.

VINOD S. BHARDWAJ, J. (Oral)

The instant petition has been filed on behalf of the petitioners for issuance of directions to the respondents to comply with the directions passed by the Hon'ble Supreme Court of India regarding providing security and to provide work to the family of the victims and also to provide other essential services by placing reliance upon the order passed by the Hon'ble Supreme Court of India on 12.05.2011 in Writ Petition (Civil) No. 211 of 2016. The said order has been appended alongwith the petition as Annexure P-1. The relevant extract thereof reads thus:

“I.A.No. 14 of 2011 :

We have heard Mr. Colin Gonsalves, learned senior counsel for the applicant and perused the record. In our view, ends of justice will be met if Mr. Manjit Singh Dalal, Addl. Advocate General is asked to ensure that appropriate protection is provided to the persons who deposed in the case pending at Delhi and are presently living in Haryana.

Mr. Dalal says that as soon as the details of such

persons are made available to him, he will direct the concerned police authorities to provide protection to those persons.

I.A. No.3 of 2010:

In this application a prayer is made to issue a direction to the State administration to provide two quintals of wheat and also to provide work to the victim families. Mr. Dalal says that as soon as a representation is made to the Deputy Commissioner, Hissar, two quintals of wheat will be supplied to each family for the months of May and June, 2011.”

2. The aforesaid order of the Hon’ble Supreme Court of India records a statement of the counsel representing the State to make adequate arrangement for protection to the persons, who deposed in the case pending at Delhi. It is significance to point out that the aforesaid writ petition (Civil) bearing No.211 of 2010 was disposed of by the Hon’ble Supreme Court of India and the said writ petition was transferred to Punjab & Haryana High Court to limited question of rehabilitation videly order dated 21.08.2015. The relevant order of the Hon’ble Supreme Court of India in the aforesaid writ petition dated 21.08.2015 reads thus:-

“Justice Iqbal Singh Commission of Inquiry has submitted its report. The State of Haryana has filed an affidavit stating that they have accepted the Report and they are implementing the recommendations made in the 2 Report.

Mr. Colin Gonsalves, learned senior counsel appearing for the petitioners says that the issue of rehabilitation is still pending and some directions have to be passed in this regard. If that is so, the matter can be taken up with the High Court.

The writ petition is transferred to the Punjab and Haryana High Court limited to the question of rehabilitation.

The writ petition is disposed of as far as this Court is concerned.

The Registry is directed to transmit the record of this writ petition to the Punjab and Haryana High Court forthwith.”

3. It is thus evident that at the stage of disposing of the writ petition, the Hon’ble Supreme Court of India has not issued any direction for continuation of the protection. Furthermore, the sole issue that has seemingly been kept alive is as regards rehabilitation of the victims. It is not in dispute that the writ petition is pending before Division Bench of this Court for the aforesaid purpose. The petitioners have chosen not to make reference to the final order passed by the Hon’ble Supreme Court. Any order passed in IA would be deemed to have merged in the final order so passed. The order dated 12.05.2011 passed in IA of 2011 cannot be presumed to be valid subsisting and binding despite the writ petition having been disposed of by the Hon’ble Supreme Court on 21.08.2015 wherein no such protection was ordered to be continued.

4. Be that it may, there is no reason why the petitioners ought not to move an appropriate application before Hon’ble Division Bench of this Court where the writ petition is pending after transfer by the Hon’ble Supreme Court of India.

5. Apparently, the petition seems to be an attempt at forum shopping at a belated stage without disclosing the factum of passing of the final order by the Hon’ble Supreme Court of India and also the

factum of pendency of the writ petition before the Hon’ble Division Bench. No reason have also been assigned as to why moving of any appropriate application before the Hon’ble Division Bench was not an efficacious remedy available to the petitioners. Even otherwise, the question of rehabilitation and amenities prayed for by the petitioners in the present peititon are also subjudice and pending consideration in the writ petition before the Hon’ble Division Bench.

6. I find that there is no occasion for entertaining this writ petition during the pendency of the writ petition before the Hon’ble Division Bench. The same is accordingly dismissed. The petitioners shall however be at liberty to take recourse of the appropriate remedies available to them in accordance with law.

(VINOD S. BHARDWAJ)
JUDGE

AUGUST 26, 2022

Vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No