

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

286

**CWP-23354-2022 (O&M).
Date of Decision: 15.12.2022.**

Vishal Singh Panesar

...Petitioner

Versus

State of Punjab and others

...Respondents

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

Present: Mr. Kamal Goyal, Advocate, for
Mr. Chanderhas Yadav, Advocate, for the petitioner.

Mr. Saurav Verma, Addl. A.G. Punjab.

Ms. Madhu Dayal, Advocate,
For respondent No.4 – S.B.I.

VINOD S. BHARDWAJ. J (ORAL)

The present writ petition seeks issuance of a writ of in the nature of mandamus directing the respondent authorities to credit the amount of FDRs as mentioned in para 3 of the petition to the petitioner's personal State Bank of India (SBI) Account No.10088302585 or in the joint account held by the petitioner with his wife Tina Panesar bearing SBI Account No.55151721192 so that the same could be used for the treatment of his wife.

Briefly summarized, the case of the petitioner is that he is married to Tina Panesar. The petitioner and his wife created 10 Fixed

Deposits (FDs) two of wife’s personal SBI accounts. The details thereof are as under:-

Savings Account # : 32082668511 Current State: STOP, Pending KYC FD Account # : 3213356 3409 3213356 5145 3213356 6783 3213356 8168 3213356 9819 Principal: INR 5,00,000.00 each Current Principal: 5,00,073.00 each	Savings Account # : 6513 106 0751 Current State: Operable, FD Account # : 6513202 9787 6513202 9856 6513202 9889 6513202 9903 6513202 9969 Principal: INR 5,00,000.00 each
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Tina Panesar i.e. wife of the petitioner was admitted in the Fortis Hospital Mohali on 08.12.2015 and thereafter on 06.01.2016 for a period of 60 days and ever since then, she is in comatose stage. She is totally bed ridden and is not in a capacity to move any limb or body part. A certificate in this regard was also placed by the petitioner. He contends that the petitioner is in dire need of the financial assistance to meet the medical expenses of his wife. However, the respondent bank is not crediting the amount of those FDRs in favour of the petitioner in the absence of instructions by Tina Panesar. The details of various FDRs and the date of their maturity have been set out in para 3 of the petition and the same reads thus:-

SR. No.	FD Account number	Paper FD Principal amount	Paper FD Maturity	Current Principal amount	Current Maturity
1	3213356 3409	Rs.5,00,000.00	10.01.2018	5,00,073	10.01.2024
2	3213356 5145	Rs.5,00,000.00	10.01.2018	5,00,073	10.01.2024
3	3213356 6783	Rs.5,00,000.00	10.01.2018	5,00,073	10.01.2024

4	3213356 8168	Rs.5,00,000.00	10.01.2018	5,00,073	10.01.2024
5	3213356 9819	Rs.5,00,000.00	10.01.2018	5,00,073	10.01.2024
6	6513202 9787	Rs.5,00,000.00	11.10.2014	5,00,000	25.12.2022
7	6513202 9856	Rs.5,00,000.00	11.10.2014	5,00,000	25.12.2022
8	6513202 9889	Rs.5,00,000.00	11.10.2014	5,00,000	25.12.2022
9	6513202 9903	Rs.5,00,000.00	11.10.2014	5,00,000	25.12.2022
10	6513202 9969	Rs.5,00,000.00	11.10.2014	5,00,000	25.12.2022

The matter was heard at initial stages and vide order dated 12.10.2022 the Deputy Commissioner/District Collector, Amritsar had been directed to furnish a report regarding the health and medical condition of Tina Panesar i.e. the wife of the petitioner by deputing Medical Officer(s) from the Civil Hospital.

Learned State counsel has submitted the Medical Report today in the Court. The Medical certificate submitted by the respondent authorities reads thus:-

“After referring the medical documents and conducting clinical examination of Tina Panesar. There was no evidence of awareness of self or environment and there was inability to interact with others. There was no evidence of voluntary behavioral responses to visual, auditory, tactile or noxious stimuli. Sleep wake cycle was intact. Respiratory function was normal and she was haemodynamically stable. She is found to suffering from Thyroid Storm. Cortical Vein Thrombosis, Cerebral Hemorrhage, Seizures, Acute Basilar Artery Infact, (Post Decompressive Craniotomy +Duraplasty on 11/12/2015), and discharge on 18-02-2016 for nursing care at home. She

is in persistent vegetative state with stable haemodynamics.”

It is thus evident from a perusal of the above extracted part that Tina Panesar – wife of the petitioner is in a persistent vegetative state with stable haemodynamics.

The consent of Tina Panesar therefore cannot be obtained under the given circumstances when she is not in control of her senses. Besides this, the petitioner cannot be construed as a successor since she is not clinically dead.

Learned counsel appearing on behalf of the respondent No.4-SBI contends that there are certain instructions for release of the FDRs in relation to the savings bank account where such transactions may be permissible after obtaining thumb impressions however there are no such instructions from SBI in relation to crediting the fixed deposit. She further submits that even the KYC documents of the petitioner are also not complete and that in the absence of the KYC documents also, it is not possible for the respondent bank to credit the said amount as stated above.

I have heard the learned counsel appearing on behalf of the parties and have gone through the documents appended along with the instant petition.

It is invariably a situation which is neither comprehensible nor desired. The medical condition of Tina Panesar, in whose name the fixed deposit receipts have been created, does not allow her to issue any instructions for the encashment or crediting of the fixed deposits.

However, at the same time it cannot be lost sight that the said FDRs were meant for utilization by the beneficiary.

The medical report substantiate that Tina Panesar is in a persistent vegetative state and is not in a situation to give her consent. However, Tina Panesar is entitled to avail the benefit of the amount deposited by her and/or on her behalf for future exigencies. It cannot be denied or disputed that the aforesaid amount is required by the petitioner to support the medical expenses of Tina Panesar who has been in the said stage for nearly 06 years and the same would have been used for medical expenses.

The transfer of money in the fixed deposit was surely with an objective for meeting the future exigencies. The emergent and exigent circumstance has, however, unfortunately arrived. The petitioner cannot be denied his entitlement to use the said money for supporting the life support system of Tina Panesar for want of funds. Even though she may be in a vegetative stage on account of comatose stage, however, her live as a person still subsists. Such rights cannot be denied by calling upon the petitioner to surrender to the long drawn legal declarations only to get what ought to have been released to him without any delay. The status of the petitioner vis-à-vis Tina Panesar is not in dispute. There is no reason to suspect that the amount is being sought to be misappropriated by the petitioner for seeking release thereof in his favour. The fact that Tina Panesar has been in the said stage since 2016 and the petitioner has approached this Court for seeking the release of the FDRs, at this stage, rather, supports the presumption that the

petitioner is in need of financial assistance. The procedural requirements cannot stand as a towering impediment to disentitle a person to avail what lawfully belongs to him and is meant for his/her welfare. The procedure of law aims to reduce the hardship and cannot delay the benefits to an extent whereby it becomes a denial. When the circumstances are extreme, the remedial measures have to be exemplary. The rights guaranteed to Tina Panesar and also the petitioner under Article 21 of the Constitution of India cannot be sacrificed at the altar of technicalities moreso when there is no dispute or counterclaim qua the amount.

Taking into consideration the totality of circumstances, the medical condition of Tina Panesar and also the urgent need of finances, I deem it appropriate to direct the respondent No.4-SBI to credit the amount of FDRs as extracted above along with the accrued interest to the joint SBI Account No.55151721192 subject to the petitioner submitting other KYC documents for operating the said account and furnishing an affidavit with the respondent bank to indemnify the bank in the event of any counter claim being filed.

The present petition is accordingly allowed in terms as above.

December 15, 2022
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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