

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-23595-2021 (O&M)
Date of Decision: 05.04.2022

RAJENDER SINGH
Versus

..... Petitioner(s)

STATE OF HARYANA AND ANOTHER

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Neeraj Goel, Advocate for the petitioners.

Mr. Harish Nain, AAG, Haryana.

LISA GILL, J.

The petitioner in this writ petition is aggrieved of action being taken by the respondent-authorities on the basis of pseudonymous complaint dated 16.12.2020. It is stated that action on pseudonymous complaints is barred by the guidelines dated 01.02.2021 (Annexure P-7) issued by the General Administration Department, Haryana.

Brief facts necessary for adjudication of the case are that petitioner was selected and appointed as Draftsmen Civil Instructor in Skill Development and Industrial Training, Haryana on 29.02.1992 and is presently posted as Group Instructor at the Government Industrial Training Institute (Women), Kaithal. It is stated that in the year 2020 when the petitioner was working as Duty Principal at Government Industrial Training Institute (Women), Kaithal and was heading the Purchase Committee, constituted as per the rules of the department for the purchase of certain machinery, repair and beautification of the premises of the campus, the total amount of work done was to the tune of Rs.6,00,000/-. A complaint, Annexure P-2, was filed on 15.12.2020 by one Naresh, Social Worker,

resident of Patel Nagar, District Kaithal before the Deputy Commissioner,
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I attest to the accuracy
and integrity of this order

Kaithal alleging therein that some unnecessary sale purchase is going in Government Industrial Training Institute (Women), Kaithal and the said renovation and purchase was not required leading to wastage of government money, on which action was prayed for against the employees responsible. Principal, Government Industrial Training Institute (Women), Kaithal issued letter no.866 dated 21.12.2020, Annexure P-3, to the said complainant intimating him that the department was ready to conduct enquiry on his complaint dated 15.12.2020, for which he was required to join the enquiry by providing his affidavit. Said letter was issued dasti. As per the dasti report endorsed on letter dated 21.12.2020, it is reported that complaint dated 15.12.2020 was pseudonymous as there is no person with the name of Naresh residing in Patel Nagar, Kaithal.

It is stated that petitioner being drawing and disbursement officer during the said tenure, was ultimately called by the Principal and the said complaint was intimated to him, but the complainant being pseudonymous, petitioner was under the impression that the complaint does not hold any authenticity and no action will be taken thereon until and unless the complainant provides an affidavit or valid address. It is stated that office order no.1257 dated 11.08.2021, Annexure P-4, was issued by the Principal, Government Industrial Training Institute (Women), Kaithal vide which petitioner was intimated about the inquiry, which was to be conducted by Shri Surinder Kumar Kaushik, Deputy Director, on the purchase done by the petitioner not in accordance with the rules. Departmental inquiry was initiated vide impugned order dated 01.10.2021, Annexure P-6 on the basis of pseudonymous complaint dated 15.12.2020.

Learned counsel for the petitioner submits that petitioner, who is presently posted as a Group Instructor at the Government Industrial Training Institute (Women), Kaithal, is being unnecessarily victimized in this matter. Departmental inquiry had been initiated against the petitioner vide order dated 01.10.2021, Annexure P-6, which is in violation of the guidelines dated 01.02.2021, Annexure P-7 and is in fact violative of the petitioner's fundamental rights. Petitioner had also requested for the change of the Enquiry Officer as on previous dates i.e. 04.02.2021 and 09.04.2021, petitioner was not even intimated and inquiry was conducted in his absence.

Though, notice of motion was not issued in this petition, learned counsel for the State was asked to seek instructions on the averments of learned counsel for the petitioner that respondents are proceeding to conduct a departmental inquiry against the petitioner and that too without issuance of a charge-sheet on the basis of an pseudonymous complaint.

Learned counsel for the State, on instructions from Shri Sanjeev Sharma, Joint Director, Haryana Skill Development and Industrial Training Department, had informed that it is merely a fact finding enquiry which is being conducted by the committee constituted vide order dated 01.10.2021 and in case, any irregularities are detected in the said fact finding enquiry, due opportunity shall be provided to the petitioner. Matter was, however, adjourned at request of learned counsel for the petitioner. In the meanwhile, written statement dated 25.01.2022 has been filed. Reference in the written statement is made to Clause 2.35(2) of the Punjab Financial Rules Vol-I, which reads as under:-

“Losses occurring in offices as soon as they occur or come to notice, should be at once reported, through the immediate department superior of the Government employee reporting the loss, to the head of the Department concerned, with statement of the steps taken in the matter. When the matter has been fully enquired a further and complete report should be submitted of the nature and extent of the loss, showing the errors or neglect of rules by which such loss was rendered possible and the prospects of effecting a recover.”

It is further stated in the written statement that a complaint was filed by the Chairman of the Institute Managing Committee, Society of Government Industrial Training Institute (Women) Kaithal on 11.12.2020 alleging that the petitioner conducted a fake institute management meeting for the purpose of approval of unwanted works and expenditure. Charge-sheet was served upon the petitioner in the said matter on 05.04.2021 under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016 and ultimately orders were passed withholding one annual increment of the petitioner without cumulative effect.

Learned counsel for the State reiterates that in the present matter, as of now it is only a fact finding enquiry, which is being conducted and that too by a committee constituted vide order dated 01.10.2021 and not by the Enquiry Officer qua whom the petitioner had a grievance. It is further stated by learned counsel for the State that in case any irregularity is detected in the fact finding enquiry/preliminary enquiry, due procedure shall be followed as per the applicable rules before taking any action against the petitioner and it is not as if action shall be taken against the petitioner without even issuance of the charge-sheet etc.

Having heard learned counsel for the parties and keeping in view the specific stand of the respondents, I do not find any ground whatsoever to interfere in this writ petition at this stage. It is the specific case of the respondents that it is merely a fact finding preliminary enquiry which is being conducted at this stage in respect to the allegations in the complaint dated 15.12.2020 and in case of irregularity or infirmity is found therein, action shall be taken thereon, only after following due procedure in terms of the applicable Rules.

In this view of the matter, no further orders are called for in this writ petition, which is disposed of accordingly.

Pending applications, if any, shall stand disposed of accordingly.

05.04.2022

Sunil

**(LISA GILL)
JUDGE**

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