

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

**CACP-1-2020 (O&M)
Date of Decision:08.08.2022**

Dalbir Singh

.....Appellant

Versus

Vijay Gokhale, Foreign Secretary

.....Respondent

**CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR. JUSTICE PANKAJ JAIN**

Present:- Mr. Deepak Kundu, Advocate for the applicant-appellant.

Mr. Satya Pal Jain, Addl. Solicitor General of India with
Mr. Dheeraj Jain, Senior Panel Counsel
for respondent No.1.

Ms. Sudeepti Sharma, Addl. A.G. Punjab.

TEJINDER SINGH DHINDSA J.(Oral)

We have heard counsel for the parties.

CWP No.5907 of 2017 was filed by Dalbir Singh son of Kartar Singh raising a prayer for getting DNA report of mortal remains of his brother so that he may perform the last rites in accordance with customs/religious beliefs.

The writ petition came to be disposed of in terms of order dated 17.04.2018 (Annexure A -1).

View taken by the Writ Court was that it would be the duty of the respondent to get the DNA report from the Ministry of Foreign Exchange Affairs, Kingdom of Saudi Arabia, where Jaswinder Singh had allegedly expired in a fire accident that took place on 27.11.2015.

Accordingly, petition was disposed of with a direction to the respondent to provide DNA report of late Jaswinder Singh to the petitioner within a period of three months.

After the respondent failed to comply with the directions, petitioner preferred COCP No.3027 of 2018 alleging contempt against the respondent. The Contempt Court disposed off the petition with the following directions:-

“Jaswinder Singh lost his life on 27.11.2015 and his mortal remains are still lying in John Pinto Mortuary in Kapashera, New Delhi, in order to avoid any further unnecessary delay, let the family member of the petitioner approaches the Director, All India Institute of Medical Sciences, New Delhi on 30.11.2019 at 1.00 AM for providing the sample. Thereafter, respondents shall ensure that the test is conducted and report given as expeditiously as possible.”

For the reasons best known to the petitioner he chose to prefer the instant CACP.

The same came up for preliminary hearing on 16.01.2020 and the following order was passed:-

It is not understandable as to how the present appeal would be maintainable against the order dated 30.10.2019 passed by the Contempt Court.

However, keeping in view the humanitarian aspect, we request Mr. Satya Pal Jain, Additional Solicitor General of India to seek instructions from a competent person pertaining to the possibility of having afresh DNA matching of the dead body of Jaswinder Singh with the blood samples of his family members. Thereafter, identification of such an officer shall be made before whom the appellant-Dalbir Singh (brother of the deceased) would present himself for furnishing his blood samples. If possible, an identified officer should come present in Court for assistance.

List on 20.02.2020 for further consideration.

To be taken in the urgent list.

A copy of this order be furnished to learned Additional Solicitor General of India for compliance.

Thereafter various hearings took place in which this Court made an attempt to facilitate as also to coordinate between the State Government as also AIIMS, New Delhi, for conducting of the DNA test.

On the previous date of hearing i.e. 23.05.2022 the following directions were passed.

Issue involved is of having DNA matching of the of the dead body of Jaswinder Singh with the blood samples of his family members.

We may notice that Dr.Chittaranjan Bahera, Additional Professor, AIIMS was appointed as a Nodal Officer so as to facilitate the process of DNA matching.

On a previous date of hearing, Mr. Satya Pal Jain, learned Additional Solicitor General of India informed us that for the DNA test which is to be conducted in FSL/CFSL a State Government nominee is required to be physically present. Accordingly, we had requested Mr. H.S. Sullar, DAG, Punjab to complete instructions.

During the course of resumed hearing today Mr. H.S. Sullar, DAG, Punjab, has informed us that Dr. Sanjiv Kumar, Assistant Director (Serology), Forensic Science Laboratory, Punjab as also Mr. Harvinder Singh Virk, PPS, AIG, State Crime, Bureau of Investigation, Punjab have been nominated as a representatives of the State Government of Punjab and to be present at the All India Institute of Medical Sciences (AIIMS), New Delhi for facilitating the taking of samples from the family members of the deceased-Jaswinder Singh and for any other matter connected or incidental thereto.

In view of such development liberty is granted to the appellant to get in touch with the Nodal Officer i.e. Dr. Chittaranjan Bahera, Additional Professor, AIIMS and to apprise him as regards the two officers that have been nominated by the State Government. Dr. Chittaranjan Bahera

would thereafter convey a date on which the DNA samples are to be drawn. It would be appreciated if a short date is given keeping in view the factual premise that the dead body has been lying since the year 2015 and the agony of the close relatives to perform the last rites etc. ought to be brought to an end. The date so given would be communicated by the appellant to the Nodal Officers appointed by the State Government and who are then directed to be physically present on such communicated date for further process.

List on 08.08.2022 for further directions, if need be.

During the course of resumed hearing today, Ms. Sudeepti Sharma, learned Addl. A.G. Punjab, has furnished a status report (undated) of the Assistant Inspector General of Police, State Crime, Phase-4, SAS Nagar alongwith Annexures A, B and C.

The Status report alongwith annexures is taken on record and is marked as 'X'.

A perusal of the status report would reveal that the blood samples of Kartar Singh and Swarn Kaur i.e. parents of late Jaswinder Singh were collected at AIIMS, New Delhi on 20.06.2022 in the presence of Harvinder Singh Virk, PPS, Assistant Inspector General of Police, State Crime, Phase-4, SAS Nagar alongwith Dr. Chittranjan Behera, Additional Professor, AIIMS, New Delhi (Nodal Officer), Dr. Sanjiv Kumar, Assistant Director (Serology) Forensic Science Laboratory, Punjab and Dalbir Singh (Brother of deceased)-present petitioner.

As per DNA test report received from the Director, FSL, Phase-4, Mohali the conclusion is that deceased Jaswinder Singh is consistent as of being the biological son of Kartar Singh and Swarn Kaur. In other words present petitioner as per DNA report would be seen as the real brother of deceased Jaswinder Singh.

A copy of the status report alongwith annexures has also been shared with Mr. Dheeraj Jain, Senior Panel Counsel for respondent No.1.

Mr. Jain, makes a statement that in the light of such development and furnishing of the DNA report, it would be open for the petitioner to contact Mr. John Pinto, KH 378, Min, Old NH-8, Kapashehra Main Road, Vasant Vihar, New Delhi-110037 for claiming the body so as to facilitate the last rites.

Statement is accepted.

In view of such development, nothing survives in the instant contempt appeal and the same is disposed of.

Pending application(s), if any, shall also stands disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

(PANKAJ JAIN)
JUDGE

08.08.2022

Dinesh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No