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

CWP No.4315 of 2020(O&M)

Date of Decision: 10.05.2023

Bhupinder Sharma

.....Petitioner

Vs

State of Haryana and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Pawan Kumar, Sr. Advocate with
Mr. Surya Kumar, Advocate,
Ms. Vidushi Kumar, Advocate,
Mr. Ravinder Chaudhary, Advocate and
Mr. Shalender Mohan, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr. Udit Garg, Advocate and
Mr. Ritvik Garg, Advocate
for respondents No.5 to 7.

Mr. Sanjeev Kumar, Advocate
for respondent No.8.

RAJ MOHAN SINGH, J.(Oral)

[1]. The petitioner has preferred this writ petition for the issuance of a writ in the nature mandamus, directing the official respondents to protect the fundamental rights of the petitioner, which is allegedly violated at the hands of the private respondents, who are statedly involved in the act of harassing

the petitioner. The petitioner has also sought a writ in the nature of mandamus, directing the respondents to 1 to 6 not to take any step on the application/RTI information made by the private respondents or any other person, seeking the personal information of the petitioner in order to misuse the process of law and also not to start any enquiry on the basis of complaints filed by the private respondents.

[2]. On 17.02.2020, following order was passed:-

“The present writ petition has been filed by the petitioner-Bhupinder Sharma inter alia praying for direction to the official respondents not to start any enquiry on any complaint made by the private respondents i.e. Dharam Bir Beniwal etc., who have been impleaded as respondents No.8 to 11 in the present writ petition.

Learned Senior Counsel submits that in fact, the private respondents (specially respondent No.8), holds a grudge against the petitioner as the petitioner in his capacity as Vigilance Officer in DHBVN on 20.04.2011, had conducted an enquiry, which contained allegations against respondents No.8 & 11. He further submits that respondents No.9 & 10 were also involved, but in a separate case, in which enquiry was conducted by the petitioner. He submits that all of them by misusing the provisions of RTI Act, have been filing complaints one after another. He further submits that earlier complaints lodged by respondents No.8 to 11 (approximately four in number) have already been examined and the reports of the Competent Authority

have already come in favour of the petitioner, which are appended herewith as Annexure P-7 to P-11 and P-15. He submits that the repeated complaints and repeated enquiries are causing hardship to the petitioner.

This Court finds force in the submissions made by learned Senior Counsel. Director General of Police, Haryana and also the Chief Secretary, Home Department/respondent No.1, are directed to examine the issue and apprise the Court, if any guidelines have been framed by the State, laying some workable procedure for entertaining such complaints. This Court be apprised by way of filing a short affidavit as to if any guidelines have been framed and as to how second complaint on the same issue has to be dealt with or rejected in what manner. This Court deems it appropriate to mention that guidelines, if not framed, would be essential to the considered and framed as these issues not only cause harassment to the public at large, but, also wastes valuable time and energy of the Department. There is no lawful procedure as per which, the repeated complaints can be entertained. In view of the above, exercise be conducted, a short affidavit in the form of status report be filed within four weeks from the date of certified copy of this order.

At this stage, learned Senior Counsel informs that after the aforementioned repeated complaints, now again the petitioner has received message from Mr. Vijay Kumar ASI, which is working as a Reader in the office of DSP, Hisar to appear before him on 17.02.2020 to enquire into the complaint dated 18.11.2019 (copy attached as Annexure P-25).

Adjourned to 22.04.2020.

In the meantime, the proceedings in pursuance to complaint dated 18.11.2019 (Annexure P-25), stated to be allegedly by respondent No.8 (respondents No.8 to 11), shall remain stayed till the next date of hearing.

(Girish Agnihotri)
Judge”

17.02.2020

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[3]. Owing to non-compliance of the order dated 17.02.2020, COCP No.1031 of 2020 was filed, which was dismissed as withdrawn vide order dated 02.06.2020. Thereafter, in the present writ petition, CM No.10122-CWP of 2020 was filed by the petitioner. The said application was disposed of vide order dated 09.10.2020 by passing the following order:-

“The present application has been filed by the petitioner inter alia with a prayer that the complaints made by respondents No.8 to 11 be stayed during pendency of the petition. It is further prayed that similar complaints being made by the respondents only by changing date, name etc.

Notice of the application.

On asking of the Court, Ms. Palika Monga, DAG, Haryana, accepts notice on behalf of the State.

Learned State counsel mentions that copy of the application be served upon her during course of the day.

Learned Senior Counsel makes reference to the detailed order passed by this Court on 17.02.2020, wherein, directions were given to the Director General of Police, Haryana as well as the Chief Secretary, Home Department, to examine as to what guidelines have been framed to dealt with and deprecate second complaint and subsequent complaints on the same issue, which have already been dealt with or rejected in whatever manner.

Learned counsel by making reference to the detailed order dated 17.02.2020, passed by this Court, mentions that as a interim direction proceedings in pursuance to the complaint dated 18.11.2019 (Annexure P-25) were stayed. He submits that in spite this order, the private respondents are abusing the process of law. The complaint No.19 dated 27.01.2020, was dealt with and decided in favour of the petitioner by Additional Director General of Police, South Range, Sonipat, vide order dated 09.06.2020 (Annexure A-9). He submits that in spite this, by changing the name, on the same complaint No.19, fresh notices have been issued (one such notice was dated 17.07.2020, annexed as Annexure A-10). Learned counsel also submits that the petitioner had submitted reply by pointing that repeated complaints be not entertained. He then refers to Para 16 of the application, which is reproduced hereunder:-

“16. That as per the facts and circumstances stated above, now the other private respondent namely Ran Singh has made an complaint in the month of May 2020

against the petitioner regarding the property of the petitioner in connivance with the another private respondent name the Dharambir Beniwal who was earlier doing the complaint regarding the property of the petitioner. On this application of the private respondent name with Ran Singh, the Vigilance Department Hisar has started regular enquiry against the petitioner and it is also worth to mention here that the regular enquiry is being done by the Deputy Superintendent of Police Hisar, however the similar and same complaint had already been investigated by the IG Vigilance headquarter Panchkula in which the petitioner has been found to be innocent which shows that the private respondent in connivance with each other are making complaint again and again by one name or by another name or by from the third person which is totally against the principle of natural justice as well as against the provision of Article 14 and 16 of the Constitution of India because every person has right of equality and freedom under the constitution of India which is being infringed by the hands of the private respondents which is not sustainable in the eyes of law has the action of the private respondents are liable to be set aside. The copy of the complaint is attached herewith Annexure A-4”

Adjourned to 14.12.2020.

In the meantime, it is directed that further

proceedings on the complaints made by respondents No.8 to 11, shall remain stayed.

At this stage, learned Senior counsel makes request that since the private respondents, at the crucial stage where his case for further extension is due to be considered, are making repeated complaints, it be directed that any further enquiry be only initiated after taking permission from this Court.

This Court finds merit in the prayer and deems it appropriate to direct that any further proceedings/enquiry be only initiated after taking necessary permission from this Court.

In view of the above, Civil Miscellaneous application stands disposed of.

(Girish Agnihotri)
Judge "

09.10.2020
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[4]. Evidently, the complaints filed by the private respondents have been stayed and it has been directed that any further proceeding/enquiry be only initiated after taking a necessary permission from the Court.

[5]. Learned counsel for the petitioner submits that during pendency of the present writ petition, the General Administration Department has formulated a policy on the subject of action of anonymous/pseudonymous and repeated complaints by framing different guidelines. After due consideration and in order to deal with such a situation, the Government has decided to issue

revised instructions in supersession of previous instructions dated 14.12.2020. The guidelines are reproduced hereasunder:-

- (i) 'Anonymous complaints' are such complaints which do not carry both name and address of the complainant.
- (ii) 'Pseudonymous complaints' are such complaints which bear false or fictitious name(s).
- (iii) No action should be taken on anonymous and pseudonymous complaints. These should be ignored and filed.
- (iv) Complaints containing vague allegations should be filed without verification of identity of the complainant.
- (v) The complaint should be accompanied by an undertaking to the effect that no similar complaint has been filed earlier to any other authority and contents of the complaint are true to the best of knowledge of the complainant.
- (vi) Repeated complaints, which have already been dealt with or rejected in whatever manner, forwarded by the same complainant or by others, will not be taken cognizance of as they may be the handiwork of vested interests and made with male-fide intent.
- (vii) If any illegality or irregularity is found to be committed by the public officials while dealing with original complaint, the complainant may be allowed only to point out such deficiencies/irregularities.

(viii) If a complaint contains verifiable allegations, the complaint will be first sent to the complainant for owning/disowning the same, as the case may be. If no response is received from the complainant within 15 days of sending the complaint, a reminder will be sent. After waiting for 15 days of sending the reminder, if still nothing is heard, the said complaint may be filed as pseudonymous.

(ix) Complaints matters which are sub-judice should not be entertained by the authorities.

(x) Complaints received on official email only shall be entertained.

[6]. In the light of aforesaid guidelines, learned State counsel and learned counsel for the private respondents submit that the complaints filed by the private respondents would be tested at the threshold of aforesaid instructions. If any of the complaints has already been enquired into prior to passing of the order dated 09.10.2020, the same shall be considered to be final and is not covered under the instructions dated 01.02.2021.

[7]. In view of issuance of instructions dated 01.02.2021, this writ petition is disposed of. All pending complaints, which have not been enquired into by any competent authority, shall be tested on the parameters as laid in the aforesaid instructions dated 01.02.2021 and the competent authority would act strictly

in accordance with the aforesaid instructions. All pending applications are also disposed of accordingly.

10.05.2023	(RAJ MOHAN SINGH)
Prince	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No