

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

CWP-14776-2023
Date of decision: 14.07.2023

VINOD KUMAR

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

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

Present: - Mr. Ravinder Phogat, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

The present petition has been filed for seeking issuance of directions to the respondents to decide the notice dated 30.03.2022 (Annexure P-7) sent by the petitioner to the official respondents and for taking appropriate action against the Contractor and the concerned officials of the Department. The prayer made in the above notice is extracted as under:-

“Therefore, it is written to you by sending a notice Section 80 C.P.C. that within 7 days after receiving the notice, appropriate action should be taken in this matter as soon as possible and a high-level inquiry should be conducted of the case in a complete manner and appropriate and departmental action be taken against the concerned contractor and Executive Engineer P.W.D.B.&R. Charkhi Dadri for disobeying the orders issued by the Haryana Government and the loss of

revenue caused to the Haryana Government should be recovered, otherwise I have instructed on behalf of my client that I will approach the Hon'ble High Court, Chandigarh, in this regard and other competent jurisdiction, in that case, you will be responsible for the damages and expenses incurred by my client."

2. The grievance espoused in the said notice is in relation to the construction of the Sports Stadium in Village Samaspur. Information was sought about 16 ½ feet path left alongwith the Stadium and who approved the same. A Committee was constituted to look into the same. It has been averred that the path along the Stadium has been left without authority and in violation of letter of Govt. of Haryana by the Executive Engineer in connivance with the Contractors.

3. It has been argued by the counsel for the petitioner that pursuant to the announcement of the Chief Minister, Hayana bearing No. 20393 dated 14.10.2017 for construction of the District Sports Stadium in District Charkhi Dadri, a resolution was passed by the Gram Panchayat to provide 24 acres of Gram Panchayat land free of cost and in public interest for construction of the said stadium. The contractor has left a path of 16.5 feet out of 24.5 acres of land of the stadium on his free will and without any permission or order of the competent authority. The petitioner claims to have submitted an application for seeking information under the Right to Information Act regarding the permission of the aforesaid path which has been left by the Contractor of the stadium.

4. As no response was received, a complaint was filed by the petitioner before the Deputy Commissioner, Charkhi Dadri regarding the aforesaid illegal act and mis-conduct of the Contractor and for praying that

recovery of the amount be effected. A committee was constituted by the Deputy Commissioner, Charkhi Dadri to inquire into the said complaint vide order dated 05.09.2021. A report was subsequently submitted by the above said Committee on 13.12.2021. As per the said inquiry report, the State highway is in the east of the stadium, the link road in the north, the road to the cremation ground in the west and the wall has been constructed by leaving the path along the wall in the south. It is alleged by the petitioner that the said path has been left by the Contractor of the Stadium without any permission of the Department and in connivance with the former Sarpanch of the Gram Panchayat and that action needs to be taken against the former Sarpanch as well as the Contractor.

5. I have heard learned counsel at length & have gone through the documents appended alongwith the present petition.

6. There is a noticeable anomaly in the pleading itself. Even though it has been pleaded in Para No.2 of the petition that resolution was passed by the Gram Panchayat for 24 Acres of land, however, in Para 3, it is averred that passage was left out of 24.5 acres of land. The resolution of the Gram Panchayat has also not been appended with the instant petition. The petitioner has thus chosen to remain indefinite about the area resolved for the stadium. The Executive Engineer has also apprised in the information under the RTI that no passage has been left out of the land of the Sports Stadium. It is further reported that the Contractor is ready to construct the Wall at his own expense.

7. The embezzlement or misappropriate has been reported by the Committee & it has also been reported that the passage was left for the Cremation Ground for use by the villagers.

8. Counsel for the petitioner has also been confronted with the fact that *Civil Writ Petition No. 3910-2022* titled as “*Jagbir Singh versus State of Haryana and Others*” was filed before this Court which was decided vide order dated 04.03.2022. The same pertained to the same strip of land which was being used by the residents of the village for going to the cremation ground. It was noticed in the above said order by this Court that the petitioner had no right over the aforesaid strip of land as the same was not a sanctioned revenue rasta/passage and the Court is not competent to go into the technical details and to decide such matters. The writ petition was thus disposed of. The petitioner, if so advised, was permitted to approach the Government for redressal of their grievances, if any.

9. The report Annexure P-4 dated 13.12.2021 has also been perused. Point No.1 deals with the passage to the cremation ground which was already a subject matter of *Civil Writ Petition No. 3910-2022*.

10. The above said report nowhere points out that any illegality has been committed by the Contractor. The same was only a fact finding report and cannot be read beyond what is contained therein. Drawing of any inference or criminality/breach of a contractual obligation is neither reflected in the aforesaid report, nor any finding given.

11. Hence, the argument advanced by the counsel for the petitioner is merely based on conjectures and is aimed to direct this Court to draw an inference of fact which is not so born out from a reading of the aforesaid report. Besides, the petitioner has failed to show as to what civil actionable wrong has been caused to the petitioner and as to why the present petition ought to be entertained in this form especially when the grievance of the

petitioner, if any, is directed only against the former Sarpanch as also the Contractor.

12. The petitioner has also failed to establish any personal loss or injury. A mere submission of a complaint or seeking information under RTI does not necessarily make it a private action. The petitioner has failed to show any right or interest. The same issue was agitated in an earlier petition as well and after dismissal thereof, the present petition has been filed for extraneous considerations.

13. The present petition is accordingly devised as a ruse to settle scores with the former Sarpanch and the Contractor without impleading him as a party. The petition is thus mischievously directed to perpetuate a public cause under the garb of settling personal scores.

The same is accordingly dismissed.

(VINOD S. BHARDWAJ)
JUDGE

JULY 14, 2023

Vishal Sharma

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No