

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-19764-2021

Date of decision: 29.05.2023

JAGDISH SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

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

Present:- Mr. Ranjan Lakhanpal, Advocate with
Mr. Shubkarman Singh, Advocate
for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

VINOD S. BHARDWAJ, J. (Oral)

The present petition has been filed under Articles 226 of the Constitution of India for seeking issuance of directions to the respondents to grant compensation to the petitioner for the death of his father Harbans Singh at the hands of terrorists.

The incident in question is stated to have taken place on 11.05.1991 when the matter in question was reported to the police and the FIR has been registered. A writ petition bearing No. 4469/1999 had been filed by the mother of the petitioner which was disposed of by this Court vide order dated 05.04.1999 with a direction to the respondents to decide the representation of the petitioner. Alleging that no action had been taken thereupon, a fresh writ petition No. 2736/2005 was again filed which was also disposed of vide order dated 04.03.2005. The claim of the petitioner was declined on the ground that father of the petitioner had links with the terrorists. It was claimed by the petitioner that Senior Superintendent of Police and Deputy Superintendent of Police of the area had given a clear finding that the father of the

petitioner had no links with the terrorists at all. He is placing reliance on the reports dated 13.04.2006 and 20.08.2005 which have appended as Annexures P-3 and P-4. Further reference is made to the report of the Senior Superintendent of Police dated 08.07.1999 attached as Annexure P-5.

A short reply by way an affidavit of Barjinder Singh, PPS, Deputy Superintendent of Police, Sub Division Tarn Taran, District Tarn Taran had been filed. Paras No. 4 to 6 thereof reads as thus:

4. That as far as the contentions of the petitioner regarding inquiries conducted by the police as projected in Annexure P3, Annexure P4 and Annexure P5, it is submitted that the old police record from the period 01.01.1988 to 01.01.2014 has already been destroyed vide orders bearing No.42275-78/B dated 05.11.2013 and 25535-38/EB dated 23.06.2017 passed by the then Senior Superintendent of Police, Tarn Taran.

5. That it has been alleged by the petitioner that the S.S.P and D.S.P of the area had given clear finding that petitioner fathers had no links with terrorist at all but the perusal of Annexure P5 shows that the then Superintendent of Police had found that the father of the petitioner was having relation with terrorist groups and he was started doing wrong work on the name of terrorist and due to which the father of petitioner namely Harbans Singh was murdered by terrorist group and in last the then Superintendent of Police, Tarn Taran had recommended that Financial Aid should not be given to the legal heirs of deceased Harbans Singh son of Nishan Singh resident of village Kakka Kandiala.

6. That it is pertinent to mention here that the aforesaid incident was took place more than 30 years ago and FIR in this regard was registered on 11.05.1991 and

most of the record pertaining to the representation(s) moved by the petitioner and further pertaining to the reports (if any) issued by the Police Department has already been destroyed. As such, in the absence of original record pertaining to Annexure 3 to Annexure 5, the genuineness of these documents is itself in question. Hence, the documents relied upon by the petitioner in the present petition are denied being not supported by original record pertaining to aforesaid Annexure except the aforesaid FIR No.40 dated 11.03.1991.

It is thus the claim of the respondents that the record in question has been weeded out and that in the absence of any record available with the respondents, they cannot admitted or denied the genuineness of the documents.

Consequently, the questions raised in the present petition and the documents relied upon by the petitioner for seeking the compensation in question is based upon documents, the genuineness whereof is not established. In the said view of the matter, the questions would fall in the definition of disputed questions of fact which cannot be gone into by a writ Court.

The present petition is accordingly disposed of as not pressed at this stage with liberty to the petitioner to take recourse to the appropriate remedy available to him in accordance with law.

(VINOD S. BHARDWAJ)
JUDGE

MAY 29, 2023

Vishal sharma

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