

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

203

CWP-26656-2014 (O&M).
Date of Decision: 18.12.2023.

PRESS CLUB

.. Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

... Respondents

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

Present: Mr. Brijesh Nandan, Advocate,
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

Mr. Vikas Chatrath, Advocate, and
Mr. Dharamvir Singh, Advocate,
for respondent No.4.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer made in the present petition is for seeking quashing of letter dated 11.07.2007 (Annexure P-4) vide which the respondent No.4 has illegally transferred the amount of Rs.25 lakhs from the original Saving Bank Account No.65007473885 of Press Club, Patiala to Current Account No.65022827318 (Building Account of Press Club) against the mandate of letter dated 11.05.2007.

Learned counsel appearing for the petitioner contends that erstwhile Chief Minister had announced a grant of Rs.50 lakhs for setting up/renovation of club vide letter No.D.O.1499/LBA/MA out of which an amount of Rs.25 lakhs was meant for renovation of the Press Club, Patiala.

The said amount was sanctioned for development works vide order dated

26.05.2006 and a direction in this regard was issued vide Memo No.111 dated 11.05.2007. The said amount was also deposited in the Fixed Deposit with a maturity date of 09.04.2008 and the original of the said FDR is in possession of the petitioner Press Club. It is contended that vide letter No.40 to 44 dated 11.07.2007, the respondent-State Bank of Patiala, had transferred the above said amount to the current account mentioned above notwithstanding that no such instructions had been given by the petitioner Press Club, for whom the grant had been released.

A reply by way of affidavit of Varun Roojam, IAS, Deputy Commissioner, Patiala, on behalf of respondents No.1 to 3 dated 11.03.2015 has been filed wherein the above said factual aspect was not disputed, however, it is submitted that the amount in question was released on a condition that the same shall be utilized within a period of 03 months from the date of its release from the treasury, as per the terms and conditions contained in the letter of grant.

Since the petitioner failed to utilize the said amount and rather, preferred to keep the same in an FDR, the conditions attached to the grant were not satisfied. Hence, the petitioner was in a breach of the same for which the authorities could take appropriate action. An objection in this regard was also raised by the Accountant General (Audit) and a communication was sent to the Deputy Commissioner, Patiala by the Principal Secretary, Government of Punjab, in the Department of Finance. It is further contended that when an approval for the construction of press club building was sought at the short listed site, the Senior Architect, Patiala, vide intimation dated 08.05.2007, conveyed that no construction could be raised in the Baradari Garden as per the Punjab Government letter dated

16.11.1970. Thus, no construction being permissible, the resource could have not been expended as well. Therefore, the Director, Small Savings, Punjab, directed the Deputy Commissioner, Patiala, to transfer the said amount with the Government Treasury, Patiala vide D.O. letter dated 19.08.2009. Pursuant to the said directions, instructions were issued to the State Bank of Patiala, to do the needful, in compliance whereof the amount was deposited by the State Bank of Patiala in the account of the Treasury Office, Patiala on 19.03.2010. The writ petition in question was filed in December, 2014, in relation to a cause of action that accrued in the year 2010 and the same is highly belated.

Notwithstanding that the aforesaid written statement had been filed in the year 2015, no rejoinder/replication controverting the said aspects has been filed by the petitioner.

A separate reply on behalf of respondent No.4 has been filed, however, the facts thereof are not being adverted to, at this juncture, as the same are not necessary for adjudication of the present writ petition.

It is also noticed from a perusal of the order sheets that vide order dated 29.09.2017, this Court had directed the OSD, Vigilance (Haryana) to conduct a fact finding inquiry and to submit a report. The said report dated 14.11.2017 was submitted before this Court.

A perusal of the aforesaid report submitted by the OSD, Vigilance (Haryana) shows that there is an ongoing dispute amongst the members of the Press Club. It had been reported that the erstwhile Chief Minister laid the foundation stone of the Press Club on 18.12.2006 and a grant of Rs.50 lakhs was then announced. An amount of Rs.25 lakhs was sanctioned by the Government vide letter dated 28.12.2006 and a cheque

was handed over. In order to ensure that a proper utilization of the first installment of the grant is done, a Committee was constituted comprising of ADC (Development) as Chairman, DPRO as a Member Secretary, Executive Engineer, Provincial Division No.1 as Technical Member and three representatives of the Press Club as Members. A site was identified by the above Committee for construction of Press Club at Baradari Garden, Patiala which earlier housed the office of Regional Transport, Authority. On receipt of the said information from the Press Club, the ADC (Development) wrote a letter dated 29.03.2007 to the Chief Architect, Punjab, with a request to prepare a detailed architectural plan for the proposed Press Club, however, the same was replied to by the office of Chairman, House Allotment Committee and a reference was made to the Government letter No.4D/70 dated 16.11.1970 as per which no new construction could be raised in the Baradari Garden, Patiala. Information, in this regard, was sent by the Deputy Commissioner, Patiala, to the Secretary, Government of Punjab and a reminder was also sent that the construction was being delayed. A concession/exemption from the operation of the aforesaid Government letter was also sought, however, the said request for seeking exemption was declined. A ground was raised that as the said construction does not fall within the definition of Residential House or Urban Development that has been prohibited in the Baradari Garden, Patiala, vide above said letter, hence, the prohibition would not be applicable, but to no relief.

Thereafter, a letter dated 21.01.2010, was written by the Principal Secretary, Finance, to the Deputy Commissioner, Patiala, indicating that as the grant has remained unutilized and therefore, the same

be transferred to the Govt. Treasury. Pursuant thereto, the appropriate directions were issued. It has also been pointed out that in the meanwhile there had been certain interregnum developments inasmuch as the Press Club, Patiala not only failed to select any alternative site but also the Working Journalists of Patiala, created a separate Patiala Media Club and a Government Bungalow, bearing No.47-E, Model Town, Patiala, was allotted to them. A separate group was formed by one Praveen Komal claiming to be the President of the petitioner (herein) with very few Journalists of Print and Electronic Media. A resolution dated 29.03.2007 signed by 79 Working Journalists of Press Club was passed unanimously whereby the club was dissolved for an indefinite period and the Deputy Commissioner, Patiala, was appointed as Administrator for construction of building and other works and also to deal with accounts of the Press Club. It was also noticed that the petitioner Praveen Komal is not an accredited journalist of Patiala as per the list of the accredited reporters from the Patiala District approved by the Director, Public Relations, Punjab. Consequently, the said representative cannot be deemed as the authorized representative of the Press Club, which such body has already been dissolved, and also that a separate Government Building has been allotted to the Working Journalists of District Patiala.

Learned counsel appearing for the petitioner contends that the Press Club is still a body in existence and that they are entitled to the release of the money which had already been sanctioned by the Government and the same cannot be taken back.

On the other hand, learned counsel for the respondents contend that the said grant had been released subject to fulfillment of certain terms

and conditions and that since the said conditions had not been fulfilled, the amount has to be returned, in law, as it remained unutilized. Besides, the decision to transfer the amount had been taken way back in the year 2010 and that the present writ petition was filed after a period of more than 04 years of the passing of the said order without impugning the basic order and by merely challenging the consequential action.

I have heard the learned counsel appearing for the respective parties and have also gone through the documents appended along with the present petition as also the report filed by the OSD (Vigilance), Haryana.

It is evident that the grant in question was duly sanctioned by the competent authority i.e. the Chief Minister, Punjab, for the construction and renovation of the Press Club. The report of the OSD (Vigilance), Haryana and the undisputed written statement reflect that there had been a bifurcation of the body i.e. the Press Club and that the working Journalists had formed a separate group to which a separate Government accommodation had already been allotted for carrying out the operations of the Press Club. The body which is being represented by the petitioner is not recognized by the respondents as the valid body entitled to the release of the said amount and that the benefit of the grant could not have been given to them at this stage especially when recognition and existence of the body itself is in dispute. Once an administrator has already been appointed by the General Body, the status of the so called 'President' itself comes under a scanner and it needs to be ascertained whether he has any authority in law to pursue the present case. There is nothing on record on the basis whereof it may be assumed that the proceeding has been instituted under a valid authority. A resolution has been appended along with the petition, however,

the same is neither stamped nor is it discernible to be a resolution of the Press Club. It is not even discernible as to whether the signatories are even members of the Press Club or not. The above said basic issues attain significance in view of the report of the OSD (Vigilance) which has remained undisputed. The burden thus lay on Praveen Komal to remove the doubts against his authority which he has failed to remove.

Further, it is not in dispute that the grant in question was required to be utilized within a period of 03 months of the release of the same from the Government treasury. It is not the case of the petitioner that utilization of the grant was done within a period as specified in the terms and conditions. A grant, by its very nature is a concession and not a vested right. If the essential conditions attached to a grant are not satisfied, the same lapses and there is no subsisting right on the body to claim the release thereof. Even otherwise, though an arduous attempt has been made by the learned counsel for the petitioner to contend that the amount in question was supposed to be utilized for the purpose of renovation, however, the contemporaneous correspondence reflects that there were some plans submitted to the Chief Architect, Patiala, for construction of a building in the Bardari area which was selected by the petitioner Press Club at the relevant point of time. The contention of the petitioner that no new construction was to be raised fails to inspire confidence and further than an alternative site has already been allotted by the Government to accommodate the Press Club and to operate its activities. Hence, at present there is no site with the petitioner even if accepted to be represented by petitioner Praveen Komal and the site identified by them in Baradari Garden, Patiala, is hit by the notification issued by the Punjab Government

in the year 1970 whereby all construction in the area had been stopped. The respondents have also not granted any exemptions/concessions from the operation of the erstwhile notification. There would thus be no purpose behind retention of the amount once there is no utilization plan available.

Hence, considering from any of the perspectives, the prayer made in the present writ petition cannot be allowed. The present writ petition is accordingly dismissed.

December 18, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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