

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

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CRWP-9185-2020 (O&M)

Date of Decision: 20.01.2023

Dhanak of Humanity & another ...Petitioner

Versus

State of Haryana & others ...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Utkarsh Singh, Advocate, for the petitioners.

Mr. Gurmeet Singh, AAG, Haryana.

GURVINDER SINGH GILL, J. (Oral)

The instant petition was filed seeking issuance of a writ in the nature of habeas corpus so as to seek release of detenue Nikita Dhankar, who was alleged to be illegally detained by respondents No.4 & 5.

When the matter was taken up on 18.12.2020, the following order was passed:

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

Having seen the status report filed by the Commissioner of Police, Gurugram, dated 09.11.2020, annexing therewith in vernacular form the statement shown to be recorded of the alleged detenue, i.e. Nikita Dhankar, daughter of Ram Chander Dhankar (respondent no.4), before the learned JMIC, Gurugram, on 05.11.2020, stating to the effect that she knew the petitioner but she does not wish to have anything to do with him any further, I would infact find no reason to entertain this petition,

especially as upon a query made to learned counsel for the petitioners, as to whether he doubts the identity of the person who made the statement before the learned JMJC, he has very fairly submitted that he does not at this stage at least doubt her identity.

However, the prayer made in the petition reads as follows:

- i) issue writ of Habeas Corpus and or any other writ, order exercising powers under Article 226 of the Constitution of India, 1950 to produce the detenue Ms.Nikita Dhankar before this Hon'ble Court by appointing the warrant officer;
- ii) issue writ of mandamus and or any other writ, order exercising powers under Article 226 of the Constitution of India, 1950, directing strict compliance of the judgment passed by Hon'ble Supreme Court in the case titled as "Shakti Vahini vs. UOI" vide WP(c) No.231 of 2010 by the respondents and/or compliance of the orders passed by this Hon'ble Court in the present writ petition;
- iii) for issuance of any other appropriate writ, order or direction to which this Hon'ble Court may deem fit and proper keeping in view in the facts and circumstances of the case, in favour of the petitioner;
- iv) to dispense with the service of advance notice to the respondents;
- v) to dispense with the filing of certified copies of annexures;
- vi) to allow the writ petition with costs;

Whether or not, after the main issue of the alleged illegal detention of the alleged detenue seems to be primarily satisfied, the writ petition would be maintainable or not is a moot point, but since counsel for the petitioner specifically states that even the information sought by him from the State of Haryana under the provisions of the RTI Act, 2005, has been evasively answered, and that in fact the communication sent by the DGP, Haryana, to the Assistant Registrar, PIL (Writ) of the Supreme Court on June 02, 2018, is actually not in compliance of the directions issued by the Apex Court on March 27, 2018, in Writ Petition (Civil) No.231 of 2010, he would place on record any orders passed by that court after 02.06.2020, with regard to to

compliance/noncompliance of the directions given by that court.

Adjourned to 22.01.2021.

If of course the direction is not complied with, though obviously a remedy would be available before the Supreme Court to the petitioners, however, since all other courts of law, including High Courts obviously, are bound to ensure compliance of directions issued by the Apex Court of the country, any action to be taken by this court thereupon would be considered afterwards.”

Pursuant to said order, the State has filed its reply dated 01.09.2020, wherein it has been stated that the directions issued by Hon’ble the Supreme Court in Writ Petition (Civil) No.231 of 2010 titled ‘Shakti Vahini Vs. Union of India & others’ decided on 27.03.2018 stand duly complied with.

Faced with the aforestated position, learned counsel for the petitioner submits that he may be permitted to withdraw the instant petition with liberty to file afresh in case it is found that the directions issued by Hon’ble the Supreme Court in Shakti Vahini’s case (supra) have not been fully complied with.

In view of the aforesaid submission, the petition is dismissed as withdrawn with liberty as prayed for.

20.01.2023

Vimal

(GURVINDER SINGH GILL)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No