

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

102

**CWP-24876-2022 (O&M).
Date of Decision: 05.05.2023.**

RAJINDER SINGH AND OTHERS

... Petitioners

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: Mr. Vishneet Singh Kathpal, Advocate,
for the petitioners.

VINOD S. BHARDWAJ, J. (ORAL)**CM-7209-CWP-2023**

The present application has been filed for seeking restoration of CWP No.24876 of 2022 which was dismissed in default vide order dated 23.03.2023 on account of repeated non-appearance on the part of the petitioner.

Learned counsel appearing on behalf of the petitioners contends that on account of sore throat he could not appear on the said date and had asked his friend to make a request before the Court. However, the said friend also could not turn up. Even though the aforesaid fact is not so stated in the present application, however, the same was pleaded by the counsel at the time of arguments.

The application in question is also supported by his own affidavit.

Without going into the merits of the same, the present application is allowed and the main case is restored to its original number.

Main case

The present writ petition has been filed for seeking issuance of directions to respondents No.2 and 3 to conduct a fair and impartial investigation in FIR No.21 dated 11.02.2019 registered under Sections 409, 406, 465, 476, 468, 471 and 120-B of the Indian Penal Code, 1860 registered at Police Station Sadar, Fazilka and to take appropriate criminal action against respondents No.5 to 7, who are alleged to be directly/indirectly involved in embezzlement of funds by taking benefit of their designation and a further prayer has been made to take steps to ensure recovery of the wealth accumulated illegally by them.

The petitioners claim themselves to be the residents of village Mandi Hazoor Sahib and are labourers by profession. The respondent No.5 is stated to be an Ex-Sarpanch of Gram Panchayat of village Mandi Hazoor Sahib while respondent No.6 is the MNREGA mate whereas respondent No.7 is the Assistant Panchayat Officer presently posted as Block Development and Panchayat Officer, Jalalabad. The entire Job Card record including the resolution Book etc. are stated to be lying in the custody of the aforementioned persons.

It has been alleged that the aforesaid respondents embezzled huge sums/grants released under the MNREGA Scheme by raising fake demand of the work. The job responsibilities of the Assistant Panchayat Officer entails issuance of Muster rolls to the Sarpanch, Job Cards to the

applicants and works to be assigned to them in the blocks and further to monitor the same to be carried out in a satisfactory manner. However, the private respondents in connivance with respondent No.7 made the job cards of deceased persons and linked their bank accounts with the said job cards. ATM as well as the passbooks of the most of the villagers are stated to be in possession of respondent No.5 and 6. Taking advantage of the above, they withdrew the amount from the aforesaid bank accounts and embezzled the Government funds.

A representation/complaint was made against various officials whereupon FIR No.21 dated 11.02.2019 registered under Sections 409, 406, 465, 476, 468, 471 and 120-B of the Indian Penal Code was registered at Police Station Sadar, Fazilka against the petitioners as well as respondents No.5 and 6 and one Sanjay.

It is contended that the respondents, being the supporters of the ruling party, wield influence on the police proceedings and are trying to win over the witnesses. He has thus alleged that a deep rooted nexus exist between the accused and the State machinery and there is no possibility of investigation being conducted in fair, impartial and transparent manner.

I have heard the learned counsel for the petitioners and have gone through the documents appended along with the present petition.

The allegations levelled by the petitioner are largely in respect of an alleged nexus between the other accused persons and officials of the State Machinery. The petitioner had failed to refer to any material or allegation on the basis whereof such an apprehension may be said to be

corroborated by cogent objective material. Mere apprehensive allegations cannot partake the need for objectivity and form basis for expressing or alleging that investigation may not be fair. Entertaining such applications are likely to lead to an abuse where mischievous persons may throng Courts for same relief and steer investigation for vested interests.

The present petition is only based on apprehensions about the Investigating Agency not doing a fair job. Such allegations cannot be the basis for concluding that the Investigating Agency shall not conduct a fair and impartial investigation. There are no allegations levelled against any officer is associated with the investigation of the case and there are no reasons given as to why the petitioners apprehend that there is no possibility of investigation to be conducted in a fair and transparent manner. Filing of such petitions under the garb of and seeking a direction for a fair investigation as a means to control/steer the investigation is impermissible. The freedom of the Investigating Agency to conduct the investigation has to be kept open.

Since the apprehensions expressed in the present petition are not substantiated by any cogent material, I do not find that sufficient grounds exist for invoking the extra-ordinary writ jurisdiction of this Court under Article 226/227 of the Constitution of India. The present writ petition is accordingly dismissed.

However, taking into consideration that the FIR in question was registered on 11.02.2019, the State is directed to apprise the status of the pending investigation and if the same has not been concluded, the

timelines within which such investigation shall be concluded and a final report filed.

The Registry is directed to list the case for compliance after a period of 04 weeks.

May 05, 2023.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*