2024:PHHC:164577

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

**214**

**CWP-3665-2020 (O&M)**
**Date of decision: 10.12.2024**

Raj Kumar

...Petitioner

VERSUS

Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh and another

...Respondents

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

Present :- Mr. Rahul Sharma-1, Advocate for the petitioner.

Mr. Vikrant Sharma, Advocate for the respondents.

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**VINOD S. BHARDWAJ, J. (Oral)**

Challenge in the present petition is to the letters dated 24.01.2020; 26.11.2019; and 02.11.2019 sent by the respondent Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh imposing a penalty upon the petitioner.

Learned counsel contends on behalf of the petitioner that the he had been running the Cafeteria in the PGIMER as per terms & conditions of his license dated 16.05.2019. The petitioner was, however, served with a Show Cause Notice bearing No. PGI/Estate-I/2019/EST-I001903 dated 16.09.2019 seeking an explanation about selling of tea/snacks on a moveable trolley in the patient care areas/blocks of New OPD despite having no valid permission. A response was submitted by the petitioner on 20.09.2019 specifically to the effect that he has not made any attempt to sell tea/snacks

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on a moveable trolley and he denied having any connection with the sale of the same. Notwithstanding the same, vide order dated 02.11.2019, a penalty of Rs.55,000/- was imposed upon the petitioner.

Aggrieved thereof, the petitioner submitted a representation to the Office Superintendent, Estate Branch-I, PGIMER, Chandigarh seeking a copy of the order as well as the reasoning recorded thereunder. It was also informed that as per the information that he had gathered, the said moveable trolley was being operated by the PGI Welfare and not by the petitioner. It is argued that neither the said order nor the evidence has been furnished to the petitioner and instead, they were wanting to enforce the recovery. Hence the present petition was filed.

Learned counsel appearing on behalf of the respondent-PGIMER, however, responds that the unauthorized mobile trolley was found serving snacks in the New OPD. The Security Office reported that the said trolley was being operated under the instructions of the petitioner herein. On the basis of statement, Show Cause Notice was issued and the penalty was imposed as per the terms & conditions of the license of the petitioner. He contends that the issue is as to whether the petitioner was operating the said trolley or not is a disputed question and cannot be gone into by a writ Court.

I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents available on record.

It is evident from a perusal of the paper-book as well as the documents appended alongwith the petitioner that the penalty of Rs. 55,000/- had been imposed upon the petitioner for violation of terms &

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conditions of the license agreement and for allegedly having operated a mobile trolley in the New OPD area without having any valid authorization. However, the aforesaid penalty has been levied solely on the basis of a statement made by the Security Officer about having made an enquiry of the trolley being related to the petitioner notwithstanding a specific denial thereof by him. A perusal of the statement of the Security Officer appended as Annexure R-1 also reflects that the said trolley had been released on the verbal directions of one Dr. Mahesh Devnani, Assistant Professor, Department of Hospital Administration the then Incharge, New OPD. But it nowhere discloses as to who was the person selling and why trolley was released on oral orders and without taking any letter in writing.

Besides, there is no order that has been appended alongwith the present petition on the basis whereof the representation of the petitioner about the trolley not belonging to him has been considered and has been rejected. Further, there is also nothing on record to show as to under what circumstances, the confiscated/seized trolley was released more so and the petitioner himself was disclaiming any connect to the same. There was thus no occasion for the trolley being released solely on the alleged assurance of the petitioner without taking an apology in writing. It was incumbent upon the respondent-authority to record the statement of the petitioner, in case the said trolley was released at his assurance, about admission of violation and acknowledgment of liability.

Even though the question would be a disputed question of facts, however, once the imposition of fine itself is devoid of any *per se* valid

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foundation in law, the respondents cannot be permitted to contend that the said aspect(s) and legality of their action in imposing the fine cannot be gone into merely because it raises certain disputed questions of facts. Where the dispute itself appears to be not well founded, the matter can be examined by the writ Court.

Under the given circumstances, I am not inclined to accept the plea set up by the respondents. Consequently, the present writ petition is allowed. The letters dated 24.01.2020; 26.11.2019; and 02.11.2019 imposing a penalty of Rs.55,000/- on the petitioner are set aside.

The respondents shall, however, be at liberty to take an appropriate action in accordance with law, after granting an opportunity of hearing to the petitioner, if so advised.

**(VINOD S. BHARDWAJ)**
**JUDGE**

**10.12.2024**
*Mangal Singh*

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

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