

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

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2024:PHHC:080911-DB



LPA-1462-2024

Date of Decision: 01.07.2024

Parveen Rani

.....Appellant(s)

Versus

State of U.T., Chandigarh and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. Mahavir Singh Sharma, Advocate,
for the appellant.

Mr. Rakesh Sobti, Advocate,
for. Mr. L.S. Virk, Advocate,
for U.T. Administration.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

1. The present letter patent appeal is directed against the judgment dated 30.05.2024 passed by the learned Single Judge in CWP-13428-2024. The learned Single Judge has noticed that the relief is regarding the claim of original documents from the private respondent No.5, who is stated to be immigration service provider and a private company. The writ petition has been held to be not maintainable as it is a private dispute and, therefore, alternative remedy has been directed to be availed of by the learned Single Judge.

2. We have perused the paper book, which would go on to show that there was apparently a Memorandum of Understanding between the parties. The dispute is as such of getting a work visa for Portugal. In the

19.04.2024 (Annexure P-5) also by respondent No.5, it has been mentioned that the said respondent was entitled to claim Rs.10,30,000/- after the approval of the work visa apart from the fact that the passport has been collected by the said respondent and handed over to the writ petitioner.

3. In such circumstances, apparently disputed issues of factual matrix are arising apart from the fact that the writ petition as such would not be maintainable against the private respondent. Accordingly, the learned Single Judge has rightly relegated the writ petitioner-appellant to her alternative remedy. The law regarding this aspect stands settled in ***United Bank of India vs. Satyawati Tondon and others, (2010) 8 SCC 110***, whereby the legal principles have been laid down regarding the maintainability of the writ petition, which read thus:-

“30. The Court while exercising its jurisdiction under [Article 226](#) is duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.

The Court in appropriate cases in its discretion may direct the State or its instrumentalities as the case may be to file proper affidavits placing all the relevant facts truly and accurately for the consideration of the Court and particularly in cases where public revenue and public interest are involved. Such directions are always required to be complied with by the State. No relief

could be granted in a public law remedy as a matter of course only on the ground that the State did not file its counter-affidavit opposing the writ petition. Further, empty and self-defeating affidavits or statements of Government spokesmen by themselves do not form basis to grant any relief to a person in a public law remedy to which he is not otherwise entitled to in law."

4. Keeping in view the cumulative facts and that disputed questions of facts are arising, we are of the considered opinion that the learned Single Judge is well justified in relegating the writ petitioner-appellant to her alternative remedy. Resultantly, the present letters patent appeal stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

01.07.2024
shivani

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No