



IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

125

CWP-15481-2024 (O&M)  
Date of decision: 10.07.2024

Rohtash

...Petitioner

VERSUS

Lokayukta Haryana and others

...Respondents

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

Present :- Mr. Nitin Rathee, Advocate for the petitioner  
(Legal Aid Counsel).

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

1. Challenge in the present writ petition is to the report/order dated 01.12.2023 passed by Lokayukta, Haryana, whereby the complaint filed by the petitioner has been closed.

2. Learned counsel for the petitioner vehemently argues that the petitioner had submitted a complaint to the District Forest Officer, Karnal alleging that the land of the respondent-Department adjacent to the National Highway No.44 near Hafad Tarawadi is being utilized by one Mohan Rana son of Sher Singh in collusion with the Forest officials for the last 17-18 years. A prayer was thus made for initiating action against officials of the Forest Department. Dissatisfied with the filing of the complaint, by the Lokayukta, the present petition has been filed.

3. It is submitted that on receipt of the said complaint, it was forwarded by the Lokayukta to the office of Chief Conservator of Forests



Department, Haryana, for seeking a report. Accordingly, the Additional Chief Conservator of Forest Department, Haryana, submitted its report vide letter dated 10.03.2022, which was also supplied to the petitioner for filing his objections. The same were filed on 13.08.2022. Reply to the complaint was also submitted by the District Forest Range Officer, Indri, vide letter dated 04.10.2022.

4. On completion of the hearing and submission of the requisite documents and objections, the matter was referred to the Registrar in the office of the Lokayukta, Haryana to conduct an enquiry. A preliminary enquiry report dated 11.10.2023 was thereafter submitted by the Registrar. The operative part of the said enquiry report is extracted as under:

*“4. After going through the allegations of the complainant made in the complaint and on perusal of the Report (Mark A), Objections (Mark B), Reply (Mark C), Written Submissions (Mark D) and Response (Mark E), it is amply clear that the complainant has alleged that the land belonging to the National Highway Authority of India near the HAFED, Tarawadi, on National Highway 44 measuring 100 sq. yards is lying vacant for the last 17-18 years and is being used by Sh. Mohan Rana in connivance with the officials of the Forest Department and despite filing several applications and complaints, no action has been initiated by the Forest Department for planting the trees in the said land. In the Report (Mark A), it is reported that the said area is under the Municipal Committee, Tarawadi and as per FCA, the land belongs to the National Highway*



*Authority of India. It is also reported that 18 trees have been planted in the vacant land lying in front of the shops. It is further reported that the earlier complaint filed by the complainant on the CM Window has been filed after the report of planting of the trees at the spot.*

5. *The complainant in his Objections (Mark B) has refuted the findings of the report and reiterated the allegations of the complaint. He has alleged that the trees were planted on 07.07.2022 but the trees in front of the shops of Sh. Mohan Singh Rana, have not been planted in collusion with him by the officials of the Forest Department and the land is still lying vacant at the spot. In Reply (Mark C), the allegations of the complainant have been refuted and findings of the report have been reiterated. It is stated that the demarcation of the land was got conducted from the Divisional Patwari, Karnal and the land was demarcated and it was found that the Forest Department, Indri has already planted trees therein. It is also stated that only the land measuring 2.455 meter is meant for plantation of the trees as per letter dated 21.10.2015 issued by National Highway Authority of India as the land is adjoining to the National Highway 44.*

6. *Complainant in his Written Submissions (Mark D) has contended that no trees have been planted at the spot and false photographs are produced by the officials of the Forest Department and the land is still lying vacant at the spot. In the Response (Mark E), it is reported that the grown up trees are standing at the spot and the*



*photographs of the same along with copy of the demarcation report and the revenue records have been placed on record.*

7. *It is clearly evident from the Report (Mark A) that the allegations of the complainant that the land was lying vacant at the spot were not proved as 18 trees were found to be standing planted in the vacant land by the Forest Department. It is also clear that the land was got demarcated at the spot by the Forest Department and after demarcation, in vacant land about 25 trees were found planted as per the demarcation report dated 27.01.2023. It is further clear that the photographs of several such trees standing at the spot in front of the shops have been produced on record by the Forest Department. The claim of the complainant that the trees were planted by the Forest Department only after he made complaint against the officials of the Forest Department may be true but at present the trees have already been planted at the spot in the vacant land. However, the claim of the complainant that all the trees planted by the Forest Department have been damaged and at present there is no tree in existence at the spot is not substantiated from any material on record. More so, photographs of the trees standing at the spot along with copy of the demarcation report dated 27.01.2023 are sufficient to contradict the claim of the complainant regarding the non-existence of any trees at the spot. Therefore, the grievance of the complainant appears to have been properly redressed by the officials of the Forest Department. Thus, prima facie, there exists no reasonable ground for conducting further*



*enquiry or investigation in this matter by this institution."*

5. On consideration of the aforesaid enquiry report, the Lokayukta, Haryana came to a conclusion that the grievance of the petitioner is only to the extent that the plantation of trees has not been undertaken in front of the shop of said Mohan Singh Rana, which such allegations were found to be incorrect as the trees had been recorded as being planted. The allegations levelled by the petitioner-complainant about the complacency of the Forest Department were not substantiated in any manner. The complaint was thus filed.

6. Aggrieved thereof, the instant writ petition has been filed alleging that the relevant aspects have not been properly appreciated and the complaint has been filed in a summary manner. The Lokayukta ignored the fact the plantation of trees in the green belt was a subsequent act and that the non-plantation of trees in the green belt was a debatable act on the part of the forest officials to accommodate the beneficiary who continued to enjoy the land despite having no right on the same.

7. I have heard the learned counsel for the petitioner at length and have gone through the documents available on record.

8. Before examining the merits of the arguments advanced by the petitioner it needs to be kept in view that Haryana Lokayukta Act, 2002 provides for appointment of Lokayukta to enquire in to complaints or grievance against Public Servants.

9. It is evident from the complaint itself that the land in question



belongs to National Highways Authority of India, which is not a ‘Public Servant’ amenable to the jurisdiction of Lokayukta Haryana and as such any failure by National Highways Authority of India to stop usage of its land by any person cannot be enquired into by the Lokayukta.

10. Be that as it may, the allegations of the petitioner against the officials is that they did not carry out plantation and hence facilitated the occupant to enjoy the land. For appreciating the said aspect, it is necessary to advert to relevant provisions of the Lokayukta Act, 2002. The same are extracted as under:-

***“Section 2: Definitions:***

*(b) “allegation” in relation to a public servant means any affirmation that such public servant-*

- i) has knowingly and intentionally abused his position as such to obtain any undue gain or favour to himself or to any other person or to cause undue hardship or harm to any other person;*
- (ii) was actuated in the discharge of his functions as such public servant by personal interest, or improper or corrupt motives;*
- (iii) is guilty of corruption, lack of integrity in his capacity as such public servant; or*
- (iv) is in possession of pecuniary resources or property disproportionate to his known source of income and such pecuniary resources or property held by the*



*public servant personally or by any member of his family or by some other persons on his behalf;*

- (c) *“Chief Minister” means head of the Council of Ministers;*
- (h) *“grievance” means the claim by a person that a right to which he is entitled to is denied to him or is unreasonably delayed by the act of omission or commission of a public servant or the act complained of amounts to mal-administration;”*
- (j) *“mal-administration” means an act, which is unjust, unfair, unreasonable, oppressive, improperly discriminatory or not supported by law;*
- (m) *“public servant” includes a person defined in section 21 of the Indian Penal Code, 1860 and also means a person, who is or has been-*
- a. *Chief Minister;*
  - b. *a Minister;*
  - c. *a Member of the Legislative Assembly of Haryana including the Speaker and the Deputy Speaker of Haryana legislative Assembly;*
  - d. *a Chairman, Vice-Chairman or member of the Board of Directors, by whatever name called, of a Government company within the meaning of section 617 of the Companies Act, 1956, in which not less*



*than fifty-one percent of the paid up share capital is held by the State Government.*

**Section 10: Provisions relating to complaints:**

*(1) Subject to the provisions of this Act, a complaint may be made under this Act to the Lokayukta –*

- (a) in case of grievance by the person aggrieved;*
- (b) in case of allegation by any person:*
- (c) Provided that where the person aggrieved is dead or, is for any reason, unable to act for himself the complaint may be made by any person who in law represents his estate or, as the case may be, by any person permitted to act on his behalf.*

*(2) Every complaint involving an allegation or grievance shall be made in such form, and in such manner and shall be accompanied by such affidavit as may be prescribed.*

*(3) Notwithstanding anything contained in this Act or any other law for the time being in force, any letter written to the Lokayukta by a person in police custody or in a jail or in any asylum or any other custodial place, shall be forwarded to the Lokayukta unopened and without delay by the police officer or the person incharge of such jail, asylum or any other custodial place. If the Lokayukta is satisfied, that it is*

***Section 11: Provisions for holding preliminary inquiry:***

*The Lokayukta on receipt of a complaint may before proceeding to investigate such complaint or case, make such preliminary inquiry or direct any other person to make such preliminary inquiry as he deems fit for ascertaining whether there exists reasonable ground for conducting the investigation. If on such preliminary inquiry, he finds that there exists no such ground he shall record a finding to that effect that thereupon the matter shall be closed and the complainant shall be informed accordingly.*

***Section 17: Reports of Lokayukta:***

- (1) If, after inquiry in respect, of a complaint, the Lokayukta is satisfied-*
  - (a) that no allegation or grievance has been substantiated, he shall close the case and intimate the competent authority concerned accordingly;*
  - (b) that all or any of the allegations or grievances have or has been substantiated either wholly or partly, he shall, by report in writing, communicate his findings, appropriate recommendations and suggestions to the competent authority and intimate the complainant and the public servant concerned about his having made the report.*
- (2) The competent authority shall cause the report to be*



*examined and communicate to the Lokayukta within three months of the date of receipt of the report, the action taken thereon.*

*(3) The Lokayukta shall present to the Governor a consolidated annual report on the administration of this Act.*

*(4) The Governor shall cause to be laid on the table of the State Legislature a copy of the annual report referred to in sub-section (3) above within six months of its receipt along with an explanatory memorandum indicating the action taken thereon, and the reasons for not taking action in a given case.”*

11. The complaint submitted to the Lokayukta is pertaining to an area measuring 100 yards in length and 8 yards in width. The allegations are that even though about 150 trees can be planted but only 18 trees has been planted by the Forest Department. The said complaint is extracted as under:-

“

*Annexure P-10*

*To,*

*OFFICE OF LOKAYUKTA HARYANA,  
ROOM NO. 232, SECOND FLOOR,  
NEW SECRETARIAT BUILDING,  
Sector-17, Chandigarh-190017.*

*Subject:- Letter regarding taking legal action against Forest Department Karnal and planting trees.*

*To,*



*Sir, it is requested that I am Rohtash, aged 62 years, son of Shri Atma Ram, resident of village Padhana, district Karnal, Haryana and I declare that:-*

- 1. National Highway 44 Shershah Suri Marg NHAI land is lying vacant along with Zamind Hafad Tarawadi. Mohan Rana son of Shri Sher Singh resident of Gangar district Karnal has been using this land with the connivance of the Forest Department, Karnal from last 17-18 years. The land is 100 yards in length and about 8 yards in width. Around 150 trees are being planted on the side of this much land, planting trees on this land and to get it planted, I had given the application to Forest Department DFO Office Karnal on 29.05.2020 and the second application on 26.03.2021. Trees were not planted on this land. After this, I had given an application to the Financial Commissioner and Secretary (Forest), Government of Haryana, Forest Department, Mini Secretariat, Sector 17, Chandigarh dated 26.08.2020.*
- 2. That after this I had also given it to the Principal Conservator of Forest, Haryana Government, C-18, Sector 6, Panchkula, Haryana on 26.08.2020. After this, I gave it to the Forest Minister, Haryana Secretariat, Chandigarh on 07.10.2020 and after that I gave it to the*



*Forest Conservator, Central Circle, Rohtak on 24.10.2020. Then after this I gave it to DC, Sector-12, Karnal on 26.10.2020 and on 14.12.2020.*

3. *That after this I had sent it on 25.02.2021 to CM Window, Sector 12, Karnal, on 24.05.2021 to Chief Minister Haryana Niwas.*
4. *That despite giving so many applications, trees were not planted on the vacant land attached to District Karnal Hafd Tarawadi. Which land is 100 yards long and about 8 yards wide. This land is being used by Mohan Rana, son of Shri Sher Singh, resident of village Gangar, district Karnal, with the connivance of the Forest Department. Forest department officers and employees are not planting trees on this land.*

*Therefore, you are requested to take the strictest legal action as per rules against these officers and officials and trees should be planted on this land. You will be very kind.*

*With thanks*

*Dated: 17-9-2021*

*Applicant Rohtash*

*Rohtash son of Shri Atma Ram  
resident of village Padhana District Karnal.  
Mobile no. 8901193305.”*

12. The allegations, do not satisfy the ingredients as specified under



Section 2(b) of the Haryana Lokayukta Act, 2002 as there is no allegations that the insufficient plantation was actuated to obtain any undue gain intentionally and with a view to abuse the petitioner or was on account of any personal interest or improper or corrupt motive. It is also not in dispute that the petitioner has no individual grievance.

13. Unless the allegations levelled in the complaint satisfy intentional abuse of position for wrongful gain or the act is actuated by personal interest or corrupt motives, an act or default does not call for recommending action against every act of administrative negligence, carelessness or lapse or against a mere lack of optimum utilization. The enquiry conducted by the Registrar in the office of Lokayukta Haryana fails to show existence of the basic ingredients. Hence, the order cannot even otherwise be faulted with on merits.

14. Even if the allegations of the petitioner are accepted that the plantation was not undertaken by the respondent-officials, a mere failure to carry out the plantation, could not be construed as an act of abuse of the authority or deriving any wrongful benefit.

15. The burden lies on the complainant to bring *prima facie* material on record that the act complained has caused some wrongful loss to the public exchequer and has extended wrongful gain to a private party due to malicious acts, improper conduct or corrupt practices on the part of the Public Servant. It should also display an abuse of the authority by the person concerned.

16. In any case, the said grievance already stands redressed and



involvement of officials has not been established. The Lokayukta has accordingly passed the order on the examination and consideration of the evidence on record.

17. Learned counsel for the petitioner also could not refer to any evidence on record on the basis whereof it could be held that there is an encroachment by said Mohan Rana on the land belonging to the Forest Department.

18. A specific question was also posed to the learned counsel for the petitioner as to how any vested right of the petitioner would be infringed solely on account of failure on the part of the Lokayukta to make a recommendation of initiation of proceedings as the same would in no way take away the right, if any, vested in a complainant to take appropriate action against the violator in a manner known to law. No satisfactory answer has been furnished by the learned counsel for the petitioner.

19. Nonetheless taking into consideration that the primary ingredient for making of a recommendation are seemingly not satisfied and no material has been placed on record on the basis whereof, the order passed by the Lokayukta can be said to be erroneous or suffering from perversity or illegality, I find that there is no occasion which calls for a judicial review of the order passed by the Lokayukta, Haryana.

20. **The present writ petition is accordingly dismissed *in limine*.**

(VINOD S. BHARDWAJ)  
JUDGE

10.07.2024

Mangal Singh

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