

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

129+274

Date of decision: 15.02.2024

CWP-21180-2021 (O&M)
and
CWP-20735-2022 (O&M)

HINDUSTAN SCOUTS AND GUIDES ASSOCIATION, HARYANA
(STATE UNIT)

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

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

Present: - Mr. Narender Singh, Advocate
for the petitioner in both petitions.

Mr. Vivek Chauhan, Addl. A.G. Haryana.

Mr. Vijay Kumar Jindal, Senior Advocate with
Mr. Pankaj Gautam, Advocate and
Ms. Tejaswini, Advocate for respondent No. 5.

Ms. Sunita Bhardwaj, Advocate
for respondent No.3 (*Through Video Conference*).

Mr. Satya Pal Jain, Addl. Solicitor General of India with
Ms. Saigeeta Srivastava, Senior Panel Counsel
for respondent No. 4-Union of India.

Mr. Manmohan Saroop, Advocate and
Ms. Meenakshi Saroop, Advocate
for respondent No.6.

Mr. Vinod Kumar Bidhuri-respondent No.8 in person
(*Through Video Conference*).

Mr. Ajay Chauhan, Advocate
for the applicant in CM-12338-CWP-2023.

VINOD S. BHARDWAJ, J. (Oral)

CM-9241-CWP-2023 in CWP-21180-2021

The instant application has been filed under Order 1 Rule 10 (2) read with Section 151 of Code of Civil Procedure, 1908 for impleading of respondent No.8 through Neeraj Patil, National Secretary of HSGA and for deleting the name of Vinod Kumar Bidhuri, Ex-National Secretary of respondent No.8.

Respondent No.8 in person submits that he does not wish to press the present application and seeks withdrawal of the same.

Disposed of as not pressed.

CM-12338-CWP-2023 in CWP-21180-2021

The instant application has been filed under Order 1 Rule 10 (2) read with Section 151 of Code of Civil Procedure, 1908 for impleading of the applicant- Hindustan Scouts and Guides Association through its National Chairman Bharat Arora, National Headquarter C-5/19, Sector-5, Rohini, Delhi as respondent.

For the reasons mentioned in the application, the same is allowed and Hindustan Scouts and Guides Association through its National Chairman Bharat Arora, National Headquarter C-5/19, Sector-5, Rohini, Delhi is impleaded as respondent No.9 only for pursuing the present writ and without admitting any right.

CM-20185-CWP-2023 in CWP-21180-2021

For the reasons mentioned in the application, the same is allowed and RTI information dated 10.04.2023 is taken on record as Annexure P-28.

CM-13747-CWP-2023 in CWP-21180-2021

The present application has been filed under Section 151 of the Code of Civil Procedure, 1908 on behalf of respondent No.5 for pre-poning the date of hearing of the main case.

Since the main case has already been listed for today, the present application has become infructuous.

Disposed of as having been rendered infructuous.

CM-19995-CWP-2023

For the reasons mentioned in the application, the same is allowed and letter dated 13.07.2021 and 12.06.2023 and Utilization Certificates are taken on record as Annexure R-5/1 to R-5/9.

MAIN CASES

1. The issue which is espoused before this Court by the Haryana Unit of Hindustan Scouts and Guides is that the respondent No.5-Haryana Scouts and Guides Association is alleged to have been abusing the status and identity of the petitioner- Hindustan Scouts and Guides Association alongwith its Permanent Account number No. AAATH7778N for securing grants and aid from the Government of Haryana and appropriating the same.

2. During the course of hearing, an order dated 16.09.2022 passed by this Court is extracted as under:

The present petitions raise an issue regarding appropriation and/or misappropriation of the Government funds purportedly released in favour of Hindustan Scouts and Guides Association. It has been argued that by the learned counsel for the petitioner that the body by the name of “Hindustan Scouts and Guides Association” has been registered at National level and has its units at State level. Vide order dated 14.01.2016, the Government of Haryana had approved the petitioner-Hindustan Scouts and Guides Association, Haryana (State Unit) for release of funds and to undertake various activities on behalf of the Petitioner Association. He contends that despite the aforesaid orders, the respondent-State of Haryana has been releasing public funds in favour of respondent No.5, which is Haryana Hindustan Scouts and Guides Association against PAN number that had been issued in favour of petitioner-Hindustan Scouts and Guides Association (in CWP-20735-2022). He contends that the aforesaid illegality had been perpetuated by the State of Haryana since its former Education Minister was running the affairs of respondent No.5-Association. He submits that the grant-in-aid is being released to the said respondent No.5-Association consequent to a decision taken on 14.01.2016 by the State of Haryana against the PAN numbers issued in favour of the Hindustan Scouts and Guides Association despite respondent No.5 being registered as a juristic entity in the year 2018 itself as per the Haryana Registration and Regulation of Societies Act, 2012. He further submits that in the response filed by the respondent No.5, a reference is made to the noting portion and such noting portion/order has never been appended alongwith the decision of the State Government. A further contention is raised that the State Government has taken a decision to recognize an Association to which the respondent

No.2 – erstwhile Minister is associated. Such a course of action adopted by the respondent-State to patronize a juristic entity which is not the State unit of the Association against whose PAN the grant is being released is clearly an illegality for which action ought to be taken against such juristic entity that has represented itself to be the State Unit of the Hindustan Scouts & Guides Association, which it was not, and has thus impersonated on behalf of the State Unit. It has, in the said process, received and appropriated/ misappropriated the grants received from public funds to its own use. Such fraudulent acts need to be investigated into. Since the then Education Minister was himself at the helm of affairs of respondent No.5, no action has been taken despite the complaint being filed by the petitioners.

Learned State counsel contends that National Association i.e. Hindustan Scouts and Guides Association was bifurcated into two associations in the year 2017. One of the said bifurcated Association was headed by Parshottam Rupala-respondent No.3 and that the other one was headed by a new President namely Shri Harswaroop Sharma. Resultantly, the State Unit of Hindustan Scouts and Guides, Haryana was also divided into two associations. The Department of School Education Haryana decided to continue the grant-in-aid only to the State Association that was headed by the then Education Minister i.e. respondent No.2– Ram Bilas Sharma. He submits that a clarification was also sought by the respondent – State from the respondent No.4-Minister of Youth Affairs and Sports, Government of India regarding the genuineness of the factions of National Association and vide clarification dated 09.03.2020, it was informed by the Department of Youth Affairs and Sports, Govt. of India that the Ministry has not issued any grant-in-aid to Hindustan Scouts and Guides Association since the year 2017-18 due to the on-going internal dispute and running of the two factions that have been consistently indulging in levelling allegations against each other of involvement in illegal

activities.

He further submits that vide order dated 14.10.2021, this Court had passed an interim order restraining the State from releasing any funds or grant-in-aid or money to the respondent No.5 in an account being maintained by the said respondent and that said order has been complied with by the State.

Ms. Tejaswini, Advocate has entered appearance on behalf of respondent No.5 (in CWP-21180-2021) and contends that the present petition is not maintainable since it relates to a private dispute inter se amongst private individuals and relates to alleged acts undertaken by respondent No.2 in his personal capacity and not in his capacity as a Minister of the State. She further contends that a similar dispute had earlier come up before the Delhi High Court and that said writ petition bearing No.WP(Civil)-6243-2018 was disposed of vide order dated 05.09.2018 after noticing that there was a dispute pertaining to the office bearers of the petitioner Hindustan Scouts and Guides Association, which is a Society registered under the Registration of Societies Act, 1860 as well as the counter-claims raised by the other parties. She further submits that the controversy involved in this petition is an internal dispute between the office bearers of the respective factions and the Court did not find any reason to entertain the same under Article 226 of the Constitution of India, 1950. She further responds to the noting by Director of School Education to substantiate her contention and that an order was duly passed by the Competent Authority after granting an opportunity of hearing to the respective parties and upon consideration thereupon.

Learned counsel for respondent No.2 reiterates the submissions advanced by the respondent No.1 as well as respondent No.5.

Learned counsel for the respondent No.3 and 4 is not able to assist the Court for want of any response/assistance from the concerned quarters and prays for time to address the

issues before this Court.

Mr. Manmohan Saroop, Advocate enters appearance on behalf of respondent No.6 and prays for some time to assist the Court.

Mr. Arvind Rajotia, Advocate enters appearance on behalf of respondent No.7 and contends that he does not have any details regarding any account and that in the absence of any such details, he is not in a position to make any comment.

Learned counsel appearing on behalf of the respondent No.8- Hindustan Scouts and Guides which is the National Body contends that they do not recognize the respondent No.5 as a State Body and they infact recognize the petitioner as a State Unit. He further contends that the issue before the Delhi High Court was distinct and separate from the issue being espoused here and therefore, any observation so recorded in the order passed by the Delhi High Court has no bearing insofar as merits with the issues arising before this Court. He further submits that the respondent No.5 was never authorized to avail grant-in-aid from the Government on the PAN number of the answering respondent. The respondent No.5 thus gave an impression of being the authorized State unit of answering respondent No.8 which such fact was known to respondent No.5 to be incorrect. They have thus not only received the State grant on false pretext but also misappropriated the same.

I have heard the learned counsel for the respective parties.

A perusal of the issues raised before this Court shows that the petitioner seeks issuance of a writ in the nature of prohibition against the respondents and their officials from releasing any public funds/grant-in-aid to respondent No.5. A perusal of the office noting relied upon by the learned counsel appearing on behalf of respondent No.5 also shows that huge grants have been released by the State Government from the public funds.

Since the issue in question relates to the

appropriation and/or misappropriation of the public funds, the said issue can be looked into by the writ Court. It is not just a matter of private dispute inter se between the parties but it relates to utilization of funds. A Constitutional Court can look into the issues relating to misappropriation of public funds. As significant and substantial issues of title are involved and also considering the fact that public funds have been released by the Government, Departments-Respondents have no objection in case an Administrator is nominated by this Court to take over the management, supervision and control of the petitioner-Hindustan Scouts and Guides Association, Haryana (State Unit) and the Haryana Hindustan Scouts and Guides Association (Respondent No.5) as well as records of the said respective Associations during the pendency of the present petition and before any final order can be passed herein. The parties i.e. the petitioner and the respondent No.5 undertake to handover the documents as may be so required by the aforesaid Committee or Administrator so appointed by this Court and to render all possible assistance. They shall also submit the requisite documents and the statements of accounts/balance sheets. A report shall be furnished before this Court by the aforesaid Committee/Administrator after evaluating record about the funds received by respondent No.5 and the utilization thereof. The Committee shall comprise of the following:

- (i) Hon'ble Justice R.K. Nehru (Retd.) – Chairman;*
- (ii) Dr. Malvika Singh, Former Asstt. A.G. Punjab and*
- (iii) Mr. Parveen Chamoli, Advocate.*

The parties are also agreed that the status quo as already ordered may be maintained till the next date of hearing.

Adjourned to 15.03.2023.

Photocopy of this order be placed on the file of another connected case."

3. Pursuant to the said order passed by this Court, an evaluation report was submitted by the Committee. The same was duly supplied and

furnished to the counsel for the respective parties to go through the same and to furnish objection, if any, and to advance arguments.

4. No objections have been filed to the above said report. The relevant extract of the said report reads as under:-

1. DATE OF REGISTRATION OF THE RESPECTIVE ASSOCIATIONS-

Interestingly, both the Associations are claiming registration as against a common Certificate of Registration of Society, bearing Registration No.01479, dated 04.04.2018, as issued under the Haryana Registration and Regulation of Societies Act, 2012.

Now, the same is not objected to as being either unusual or unnatural, simply to the appreciation of the premise that the date of registration therein corresponds to as before the admitted period of dispute between the parties in question.

However, this committee feels to express of its reservations upon the contentions levelled by the Petitioner Association in Para 19 of its writ petition that the Respondent No.5 Association is merely a sham body/ association created in the similar name and style of the Petitioner Association; which in fact in a conjunct expression of the foregoing would assume to an erroneous assertion on the part of the Petitioner Association in drawing to its cause upon the same Registration Certificate furnished by the Respondent No. 5 Association.

Further, for the same reasons, as enumerated supra, even the contentions levelled by the Petitioner Association in Para 20 of its writ petition are objected to upon the cause of the Petitioner Association in alleging that the Respondent No. 5 Association is a parallel body registered in March 2018 at Jind.

Note: *Without prejudice, to the cause of either party in question, it is categorically apprised herewith that in drawing a*

reference to the period as preceding to the dispute In question, the common unity of the Haryana State Chapters was functioning to the receipt of funds/grant-in-aid by the State Government of Haryana without any separate registration, whatsoever.

2. DETAILS OF FUNDS RECEIVED BY THE RESPECTIVE ASSOCIATIONS DURING THE PERIOD IN DISPUTE -

That the Respondent No.5 Association has tendered in a brief tabulation with regards to the receipt of funds/ grant-in-aid, since the inception of its operational purview, the relevant extract of which is reproduced thereafter, as follows-

<u>Sr. No.</u>	<u>F.Y.</u>	<u>FUNDS RECEIVED</u> <u>(in Rs.)</u>
1.	2016-17	1,77,50,000/-
2.	2017-18	1,77,50,000/-
3.	2018-19	1,75,00,000/-
4.	2019-20	1,22,50,000/-
5.	2020-21	75,00,000/-

Thus, the details of funds/grant-in-ald as received by the Respondent No.5 Association during the period of dispute from 13.05.2018 til 14.10.2021, would stand to the cumulative value of the funds received at Sr. No. 3, 4 & 5 collectively 1.e. 3,72,50,000/-.

Further, from the joint admission of both the parties in question, no dispute whatsoever pertains to the receipt of funds/grant-in-aid as standing to the cumulative value of the funds received at Sr. No. 1 &2.

Also, it is pertinent to highlight herewith that per the admitted version of Mr. Surat Singh standing in the representative capacity of the Petitioner Association, they have not received any funds/grant-in-aid for the ear-marked period as corresponds to the dispute in question.

Note: *In compliance of the Order, dated 14.10.2021, as passed by this Hon'ble High Court, the State Government of Haryana had restrained from releasing any further funds/grant-in-aid to either of the contesting Associations.*

3. DETAILS OF THE PAN CARDS AND OTHER STATUTORY KYC DOCUMENTS SUBMITTED FOR SECURING RELEASE OF FUNDS BY THE RESPECTIVE ASSOCIATIONS-

That the Respondent No.5 has tendered in the copies of the PAN cards and other statutory KYC documents submitted by it for opening and operating the 2 bank accounts being maintained with the banks to the identification of reference as drawn upon Respondent No. 6 & 7 respectively.

However, Mr. Surat Singh standing in the representative capacity of the Petitioner Association has categorically omitted to submit the same, in standing to the explicit declaration that no bank account, whatsoever, was being maintained to the cause of the Petitioner Association into the receiving of the funds/grant-in- aid for the period in dispute.

4. UTILIZATION OF THE AMOUNT/ GRANT IN AID RELEASED TO THE RESPECTIVE ASSOCIATIONS –

That at the outset it is categorical to mention herewith that Mr. Naveen Jai Hind standing in the representative capacity of the Respondent No.5 Association has outlined on record to the mandated procedural compliance of submitting the Utilisation Certificate for a Financial Year in the immediately succeeding Assessment Year for qualifying to the

subsequent release of funds/grant-in-aid by the State Government of Haryana as corresponding to the said succeeding Assessment Year. In fact, the said mandated procedural compliance has not been refuted to the explicit admission by Mr. Surat Singh standing in the representative capacity of the Petitioner Association.

Now, Mr. Naveen Jai Hind standing in the representative capacity of the Respondent No.5 Association has tendered on record 3 utilisation certificates dated 08.04.2017, 02.04.2018 and 04.03.2020 as corresponding to the preceding financial years. However, on specific inquiry, he has admitted to not submitting the utilisation certificate in the month of April 2019, in respect of which he has categorically replied to submitting the same on dated 04.03.2020, where after the conjunct funds/grant-in-aid for the financial year 2019-20 were released on the dated 11.03.2020. Also, on a further specific query, he has admitted to the pending utilisation certificates for the funds/grant-in-aid received during the Financial Years 2019-20 and 2020-21, which could not be submitted as owing to the precarious position caused by the Covid-19 pandemic and in fact the same would be submitted shortly.

On the other hand, Mr. Surat Singh standing in the representative capacity of the Petitioner Association has categorically omitted to submit the any document in support of the utilization of funds/grant-in-aid release to his Petitioner Association upon the single premise that when no funds/grant-in-aid were actually ever received, there could not be occasion for him to furnish the utilization in respect thereof.

Note: The committee has explicitly refrained from financially dissecting and/or auditing thin the veracity of the expenditures as detailed in the utilisation certificates upon the triplicate understanding that firstly the committee is not equipped to the understanding of the sanctionability as regards the allowed expenditure, secondly the utilisation certificates

stand duly accepted and/or approved to the satisfaction of the State Government of Haryana in allowing to the release of the funds/grant-in-aid as correspondent to the succeeding financially and thirdly because to his own admission Mr. Surat Singh standing in the representative capacity of the Petitioner Association has neither objected to the utilisation certificates as pertaining to the period preceding the dispute in question nor has the attempted to categorically outline as regards any unsanctioned expenditure in respect of the utilisation certificate for the period of dispute in question.”

5. It thus transpires from the report and from arguments of the parties that the National Body i.e. Hindustan Scouts and Guides Association is registered under the Societies of Registration Act and has its State unit running under the same name and style with its office in Rohtak. Respondent No.5 which was earlier closely affiliated and associated with the parent body seemingly claims to have segregated itself and got itself enrolled as a new entity under the Haryana Registration and Regulation of Societies Act, 2012 whereupon the Govt. of Haryana proceeded to release funds to the respondent No.5-Association, after recognizing the same for carrying out activities.

6. Counsel for the petitioner contends that the respondent No.5-Association had been appropriating its entity for securing such release and submitting the audited accounts of the petitioner while receiving money by using the PAN numbers and commercial papers belonging to them, counsel for respondent No.5 contends that they have their own separate PAN Cards and that duly audited Account sheets and audit reports have already been submitted by it about utilization. The above said reports and the appropriation of money is seriously disputed by the petitioner.

7. It is also pointed out that similar controversy also arose before the Delhi High Court in *Writ Petition (Civil) 6243/2018* titled as ***“Hindustan Scouts & Guides Association versus Ministry of Finance and Others”*** which was dismissed by the High Court of Delhi vide judgment dated 05.09.2018 since intricate and disputed questions of fact were involved.

8. It is also evident that the respondent-State of Haryana contends that the funds in question were issued for use and appropriation by respondent No.5-Society only. Hence, the State does not recognize the right of the petitioner to the funds.

9. It is hence undisputedly a dispute *inter se* between petitioner-Hindustan Scouts and Guides Association as well as respondent No.5-Haryana Hindustan Scouts and Guides Association and the recognition of said respondent No.5-Association by the State of Haryana. There is nothing on record on the basis whereof it can be assumed that the State of Haryana is not competent to grant recognition to any other agency other than the petitioner-Association. In the event, the petitioner has any dispute with respect to the eligibility of the respondent No.5-Association for allotment of any funds, same would be questions of fact, which this Court is not inclined to go into at this stage since evidence is required to be led as to whether there is misappropriation of funds or not.

10. The present writ petitions are accordingly disposed of at this stage with no further directions and the parties would be at liberty to pursue their alternative remedies in accordance with law for seeking redressal of their grievances espoused herein.

11. At the same time, the counsel for the petitioner contends that different balance sheets/appropriations papers have been furnished by the respondent-Society and that the same need to be enquired into. The aspect as regards the admissibility of both the documents itself is yet to be ascertained. Since the respondent-Society is registered under the Haryana Registration and Regulation of Societies Act, 2012, hence, petitioner would be at liberty to move an appropriate application for conducting an enquiry into the financial irregularities and affairs of respondent No.5-Association as per law and take appropriate steps in this regard. In the event of any such petition being filed by the petitioner under appropriate provisions of the Haryana Registration and Regulation of Societies Act, 2012 for conducting an enquiry into the affairs of the alleged misappropriation/embezzlement of funds as allocated by the State Government, the competent authority under the Haryana Registration and Regulation of Societies Act, 2012 shall decide the said case, as per law, expeditiously and preferably within a period of five months after granting an opportunity of hearing to the petitioner i.e. Hindustan Scouts and Guides Association and/or the State Unit thereof or any other necessary party. All objections including that of maintainability would be open to the parties.

12. All the pending miscellaneous application(s), if any, are also disposed of.

13. A photocopy of this order be placed on the file of connected cases.

FEBRUARY 15, 2024

Vishal Sharma

**(VINOD S. BHARDWAJ)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No