

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102

CM-3843-CWP-2024 in/and
CWP-9623-2018
Date of decision: 16.04.2024

KALSO DEVIPetitioner

VERSUS

LOKAYUKTA HARYANARespondents

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

Present: - Mr. Briz Mohan, Legal Aid Counsel
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

CM-3843-CWP-2024

The instant application has been filed under Order 41 Rule 19 of the Code of Civil Procedure, 1908 for seeking restoration of the writ petition i.e. CWP-9623-2018 titled as “*Kalso Devi versus Lokayukta Haryana*”

For the reasons mentioned in the application the same is allowed. The petition is restored accordingly at its original number and the same is taken up on Board today itself.

CWP-9623-2018

1. Learned Counsel appearing on behalf of the petitioner contends that challenge in the present writ petition is to the report dated 08.01.2018

passed by the Lok Ayukta, Haryana. It is submitted by him that the Public Servant namely Baljit Singh, SHO, Kanwar Pal Rana, Joginder Singh, Yashpal Singh and Rajiv Kumar all of Police Station Taraori, District Karnal had misused their position and implicated the petitioner in a false case bearing FIR No. 56 dated 12.03.2012 registered at Police Station Taraori, District Karnal to help the accused whereas the version of the petitioner-complainant was not registered. It is alleged that the said officials demanded bribe and on refusal by the petitioner, the names of the innocent persons were not deleted and the complainant-party (petitioner herein) was illegally detained. Even their medical examination was not allowed to be conducted.

2. A complaint was thus filed by the petitioner-complainant before the Lok Ayukta, Haryana. On receipt of the said complaint, the Lok Ayukta, Haryana forwarded the same to the Director General of Police, Haryana, Panchkula requesting him to look into the matter and to furnish a report. A report was eventually received from the Superintendent of Police, Karnal alongwith letter dated 11.08.2014. The same was forwarded to the petitioner-complainant for information and to submit her objections to the same. Objections were eventually filed by her on 30.09.2014. The matter was heard by the Registrar and a preliminary enquiry was also conducted. A report was submitted by the Registrar wherein it was reported that a fight had taken place between the complainant-party and the opposite party belonging to the Rajput community. It was the allegation of the petitioner-complainant that it was at the instance of one Sunder Pal Rana, who was the Media Advisor to the then Chief Minister, Haryana, that the FIR was lodged promptly by including Section 307 of the IPC against the petitioner-complainant, even without proper investigation and the complainant-party

was put behind the bars. They were arrested so that they may not be medico legally examined and their cross-version is suppressed. It was reported in investigation that Bala Devi was not found present and she was eventually discharged, despite having been arrested. After the enquiry was conducted by the Deputy Superintendent of Police Assandh and accepted by the then Superintendent of Police, one Rohtash accused was found to be innocent, however, no efforts were made to get his name deleted. It was also reported that there were contrary reports of the police officials and despite opinion of one of the officials in the present case of free fight the cross case which ought to be registered, was not registered. Instead, a legal opinion was obtained which was given to the effect that a cross case be registered. It was only thereafter that the case came to be registered.

3. Pursuant to the submission of the report, The complaint was examined by Lokayukta as per law it was noticed by the Lok Ayukta, Haryana that a cancellation report in case FIR bearing No. 56 dated 12.03.2012 had been submitted before the Illaqa Magistrate. The said cancellation report, on the cross case at the behest of the petitioners, has already accepted by the Illaqa Magistrate. The Lokayukta, Haryana had specifically recorded a finding that there was nothing on record suggestive of the fact that the police authorities deliberately did not allow persons from complainant party for their medical examination or have deliberately avoided registering of cross case. There was also no evidence as regards the respondent being prima facie guilty of corruption for not registering cross-case of the petitioner. It was also noticed that some persons from the petitioner-complainant party have already been convicted by the Court in the

case registered against them. It was in the said totality of circumstances that the Lok Ayukta, Haryana declined to issue any further directions.

4. Written statement had been filed by the respondents in July, 2018 but no replication/rejoinder to the same was filed.

5. Counsel for the petitioner has merely argued that the preliminary report submitted by the Deputy Superintendent of Police has not been taken into consideration by the Lok Ayukta, Haryana while passing the final order.

6. In my opinion, the preliminary report cannot be the sole basis for challenging the order after a detailed enquiry has been conducted by the Lokayukta, Haryana and he has not found any further evidence to make any recommendation. A preliminary enquiry is conducted only for a prima facie satisfaction of the Lokayukta as to whether he has to proceed further in the matter or not. A complete inquiry has thereafter been conducting after affording an opportunity to the respective parties, by the Lokayukta, Haryana himself. The completed inquiry cannot be superseded by a preliminary enquiry conducted by the Deputy Superintendent of Police.

7. Petitioner could not refer to any irregularity or illegality in the conclusion drawn by Lokayukta by referring to any evidence. He is solely emphasizing on his apprehension.

8. In the absence of any material to show that the findings recorded by the Lok Ayukta, Haryana were perverse, unsustainable and were not based upon correct appreciation of the evidence, it cannot be said that a non recommendation by the Lok Ayukta, Haryana to the authorities to register a case can be said to be illegal, perverse or unsustainable especially

when the petitioner is no way prohibited from pursuing her remedies against the accused persons in accordance with law, by way of filing of a private complaint.

9. Further, it is not in dispute that a cancellation report had been filed in the cross case registered at the behest of the petitioners which such cancellation report already stands accepted. There is also no averment to the effect that any complaint or protest petition had been filed by the petitioner-complainant on which cognizance has been taken. To the contrary, the version of the other parties was accepted resulting in conviction of the various persons from the side of the petitioner. Once the criminal Court has already taken cognizance of the fact and has passed appropriate orders, it would even otherwise not be warranted that any fresh directions ought to have been issued by the Lokayukta, Haryana as the same would have amounted to interfering in the investigation and exercising the powers that are conferred only upon an Illaqa Magistrate under the Criminal Procedure Code.

10. Considering it from any of the foregoing reasons, the present writ petition deserves to be dismissed and no further directions are required to be issued in the present case.

11. The writ petition is accordingly dismissed.

(VINOD S. BHARDWAJ)
JUDGE

APRIL 16, 2024
Vishal Sharma

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