



CWP-32326 of 2019 (O&M) and CWP-33305 of 2019 (O&M)
1

221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-32326 of 2019 (O&M)
Date of decision : August 07, 2024

Sukhwinder Kaur
..... Petitioner
Versus

State of Punjab and others
..... Respondents

CWP-33305 of 2019 (O&M)

Harbhajan Singh
..... Petitioner
Versus

State of Punjab and others
..... Respondents

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

Present :Mr. H. C. Arora, Advocate for the petitioner.

Ms. Akshita Chauhan, DAG., Punjab for respondents No. 1 to 3
and 6 in CWP-32326-2019 and for respondents Nos.1 to 3 in
CWP-33305-2019.

Ms. Poonam Singh Thakur, Advocate for
Ms. Gurmeet Kaur Gill, Sr. Panel Counsel for respondent No.4-
Union of India.

Mr. P. S. Ahluwalia, Advocate for respondent No.5 in CWP-
32326 2019 and for respondent Nos. 5 to 7 in CWP-33305-2019.

VINOD S. BHARDWAJ, J (Oral)

1. Both these writ petitions have been filed raising an identical
issues. The prayer as extracted from CWP-32326-2019 reads thus:-



CWP-32326 of 2019 (O&M) and CWP-33305 of 2019 (O&M)

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and to issue a Writ of Mandamus, or a Writ of Prohibition, for restraining the respondents No. 1 to 3 from releasing the respondent No. 5 by grant of pardon to him without hearing the petitioner, who is the widow of Late Sh. Tejinder Singh, who was kidnapped, and for that offence the respondent No. 5 has been sentenced to rigorous imprisonment for 10 years, and who is presently on bail, and without giving adequate amount of compensation to her, inter-alia, on the grounds that (i) in view of the judgment of the Hon'ble Supreme Court of India, in the case titled "Epuru Sudhakar and another Vs. Government of A.P. and others", reported as 2006 (4) RCR (Criminal) 616, the Governor/President of India has to bear in mind the impact of such pardon on the family of the victim, and also its impact on society, and the precedent that such pardon sets for future; and(ii) in that view of the matter, the respondents No. 1 to 3 are liable to be directed to give a hearing to the petitioner before considering to grant such pardon to the respondent No. 5; to enable her to show cause against such proposed pardon to the respondent No. 5;

(iii) of a Writ of Mandamus, or a Writ of Prohibition, for restraining the respondents No. 1 to 3 from releasing the respondent No. 5 by grant of pardon to him without hearing the petitioner, who is the widow of Late Sh. Tejinder Singh, who was kidnapped, and for that offence the respondent No. 5 has been sentenced to rigorous imprisonment for 10 years, and who is presently on bail, inter-alia, on the grounds that (1) in view of the judgment of the Hon'ble Supreme Court of India, in the case titled "Epuru Sudhakar and another Vs. Government of A.P. and others", reported as 2006 (4) RCR (Criminal) 616, the Governor/President of India has to bear in mind the impact of such pardon on the family of the victim, and also its impact on society, and the precedent that such pardon sets for future; and



CWP-32326 of 2019 (O&M) and CWP-33305 of 2019 (O&M)

3

(ii) in that view of the matter, the respondents No. 1 to 3 are liable to be directed to give a hearing to the petitioner before considering to grant such pardon to the respondent No. 5; to enable her to show cause against such proposed pardon to the respondent No. 5;

AND to restrain the respondents No. 1 to 3 by issuance of an interim order, from releasing the respondent No. 5 by granting pardon to the said respondent, during the pendency of the instant Civil Writ Petition;

(iv) to grant any other relief to the petitioner to which she may be found entitled by this Hon'ble Court, in the facts and circumstances of the case, including the costs of the instant writ petition."

2. A short reply by way of an affidavit on behalf of respondent No.5 has been filed today in Court. Copy thereof has been handed over to the counsel for the petitioner as well. The same is taken on record. Registry is directed to tag the same at an appropriate place. The relevant averment of the said affidavit reads thus:-

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2. That at this juncture, it is imperative to bring to the kind attention of this Hon'ble Court that during the pendency of the present petition, the deponent was granted the concession of special "remission" - by the Governor, Punjab- by way of an order dated 20/04/2020, in exercise of powers vested in the Governor by virtue of Article 161 of the Constitution of India.

3. That in the present case, a perusal of the record would reveal that the deponent has at no point of time - been granted the concession of "pardon". Instead, the deponent has been granted the concession of special "remission". It is also imperative to state that the order dated 20/04/2020, whereby "remission" has been granted to the deponent has not

**CWP-32326 of 2019 (O&M) and CWP-33305 of 2019 (O&M)****4**

been challenged, and is not the subject matter of challenge of the present petition.

4. That since the deponent has already been granted the concession of "remission", nothing survives in the present petition, and the same has been rendered in fructuous. In view of the same, the averments made in the writ petition no longer merit any response from the deponent.

It is therefore prayed that this Hon'ble Court be pleased to dismiss the instant writ petition."

3. By relying on the same, learned counsel for the respondent contends that as the respondent-State has not exercised the power of grant of pardon and has infact granted a special remission/remission, which is separately permissible under the law, hence, the present writ petitions have been rendered infructuous.

4. Learned counsel for the petitioner does not press the instant petitions so as to raise a challenge to the order granting special remission/remission, in a manner known to law.

5. The present writ petitions are accordingly disposed of as having been not pressed at this stage.

The respondent-State is however, directed to deliver a copy of the order granting remission/special remission to the petitioner in the writ petitions within a period of two weeks.

6. Learned counsel for the petitioner is granted a further period of eight weeks to challenge the said order of special remission/remission, if so advised, in a manner known to law.



CWP-32326 of 2019 (O&M) and CWP-33305 of 2019 (O&M)
5

7. In view of the order passed above, there is no necessity for adjudicating the misc. applications, the same are dismissed having been not pressed.
8. A photocopy of this order be placed on file of the other connected case.

(VINOD S. BHARDWAJ)
JUDGE

August 07, 2024
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Whether speaking/reasoned	Yes
Whether Reportable :	No