



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-10995-2025 (O&M)

Date of decision: 30.04.2025

Kapil Dev

...Petitioner

VERSUS

State of Haryana and others

...Respondents

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

Present :- Mr. Manjeet Singh, Advocate for the petitioner(s).

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the enquiry report-cum-order dated 28.08.2024, conducted and passed by respondent No.2, i.e., the Commissioner, Hisar Range, Hisar, who forwarded the enquiry report to the Deputy Commissioner for the initiation of appropriate proceedings in accordance with the Service Rules, as well as to the order dated 02.09.2024, passed by respondent No.3, the Deputy Commissioner, Hisar, whereby the Collector placed the petitioner under suspension.

2. Learned counsel appearing on behalf of the petitioner has challenged the above communication sent by the Divisional Commissioner, Hisar, to the Deputy Commissioner, Hisar, on 28.08.2024, forwarding the enquiry report. He contends that the forwarding of the enquiry report was a direct outcome of the order passed by this Court in **CRM-M-7338-2024** in the matter of ***Sucheta Ahlawat vs. State of Haryana and others***, hence, the Deputy Commissioner, Hisar, had no choice but to pass adverse orders against the petitioner, rendering him remediless.



3. He submits that the petitioner was appointed as a Patwari and was falsely named in the complaint pertaining to mutation No.1020. One Kanwal Singh submitted an application for seeking cancellation of mutation No.1020 in favour of his sister Rattan Kaur and claiming that mutation be sanctioned in favour of all L.R.s of deceased Ranjit Singh. The said application was marked to the petitioner as the Circle Patwari, but noticing complex issue involved, informed the Tehsildar of his inability to take action.

4. A legal opinion was taken by Tehsildar from the A.D.A. in the office of D.C. Hisar who advised vide memo dated 26.08.2021 to cancel the mutation No.1020 and sanction fresh mutation in favour of L.R.s of Ranjit Singh.

5. The petitioner thereafter entered mutation No.3845 on 03.09.2021 and sent the same to the higher authorities who sanctioned the same on 06.09.2021.

6. It was thereafter that one Sucheta Ahlawat daughter of Rattan Kaur filed an application dated 11.01.2023 before the Naib-Tehsildar for cancellation of mutation No.3845. A fresh legal opinion was obtained as per which mutation was obtained as per which mutation No.1020 was declared null & void and the Civil Court decree became final. The application of Sucheta Ahlawat was thus rejected but she filed a complaint to the Superintendent of Police on 08.06.2023 alleging tampering of record. The allegations were found to be false. Thereafter, she filed a complaint under Section 156(3) of Cr.P.C. and as no decision was taken, CRM-M-7338-2024



was filed. In its order dated 27.02.2024 passed in the CRM-M-7338-2024, it was observed that mutation No.3845 was wrongly sanctioned ignoring judgment of the Hon'ble Supreme Court of India.

7. The Deputy Commissioner constituted a Committee headed by the Additional Deputy Commissioner which held that mutation No.3845 was rightly sanctioned. Notwithstanding the same, High Court directed the Commissioner to conduct an enquiry in which petitioner has not been associated and the impugned report has been forwarded to the Deputy Commissioner, Hisar who then suspended the petitioner.

8. He vehemently submits that the petitioner has been found innocent in successive enquiries, yet, he has now been arraigned without being granted any opportunity. Further, the Commissioner himself having submitted the report, there was no further remedy.

9. I have heard the learned counsel for the petitioner and have gone through the pleadings as well as the documents. The primary claim of the petitioner is that mutation No.3845 was rightly sanctioned and he has been exonerated earlier by the Deputy Commissioner, however, it would be significant to refer to the order dated 25.06.2024 passed by the High Court. The relevant extract thereof reads thus:-

“2. A brief background is necessary to understand the dispute in the present case. Petitioner happens to be the daughter of Rattan Kaur, who was one of the daughters of Ranjit Singh. A Civil Suit No.339 of 1971 was filed by Rattan Kaur against her father Ranjit Singh regarding 1/3rd share



over the land measuring 451 Kanals 3 Marlas, situated within the revenue estate of village Dabra, Tehsil and District Hisar on the basis of a family settlement. The said suit was decreed by the learned Sub-Judge, IInd Class, Hisar, vide judgment and decree dated 28.10.1971 while relying upon the written statement filed by Ranjit Singh (defendant in the said suit) and his statement recorded by the court on 28.10.1971 itself. In pursuance of above judgment, mutation No.1020 was also sanctioned in favour of Rattan Kaur.

2.1 After the death of Ranjit Singh on 19.08.1987, who died intestate, mutation No.1449 on the basis of succession was sanctioned on 26.02.1988 in favour of surviving legal heirs regarding the remaining land left by him. The aforesaid judgment and decree dated 28.10.1971 as well as mutation Nos. 1020 & 1449 was challenged by Smt. Yashodha Devi and Smt. Parmeshwari, both daughters of Ranjit Singh by filing Civil Suit No.270-C of 1997. Vide judgment and decree dated 28.09.2002, while mutation Nos.1020 & 1449 as well as the decree dated 28.10.1971 were found to be illegal by the learned Civil Judge (Junior Division), Hisar, yet the suit was dismissed on account of being time barred. Both the sides filed separate appeals against the aforesaid judgment and decree dated 28.09.2002. The court of learned Additional District Judge, Hisar, vide judgment and decree dated 16.12.2005 partly



allowed the appeal filed by Rattan Kaur to the extent that mutation No.1449 was held to be fully valid but the decree dated 29.10.1971 and mutation No. 1020 was declared illegal, null and void. At the same time, the appeal filed by the plaintiffs was dismissed as the suit was found to be time barred.

2.2 *The plaintiffs (Smt. Yashodha Devi and another) preferred RSA No.1960 of 2006 before this Court, and the same was dismissed by this Hon'ble Court vide judgment dated 27.08.2009. The decision dated 27.08.2009 was challenged by way of SLP (Civil) No.2565 of 2010 before the Hon'ble Supreme Court of India and the aforesaid SLP was dismissed on 19.03.2012 and accordingly proceedings in the present case culminated at this stage with the final outcome that the sisters of petitioner, namely, Yashodha Devi and Parmeshwari laying down challenge to the decree dated 28.10.1971 and Mutation No.1020 which was dismissed being time-barred.*

2.3 *Subsequently, a second round of litigation was also initiated when after the death of Devender Singh (who was one of the sons of Ranjit Singh), his widow Chandra, son Randeep and daughter Renu filed Civil Suit No.274-C of 2012 again challenging the decree dated 28.10.1971 and mutation No.1020, but the said suit was dismissed by the learned Civil Judge (Junior Division), Hisar, vide judgment and decree dated 19.11.2015. Appeal filed against this judgment was also*



dismissed by the learned Additional District Judge, Hisar, vide judgment and decree dated 12.12.2019 which was not challenged any further and became final between the parties.

2.4 Present complaint (Annexure P-1) was filed by the petitioner while alleging that after the death of Smt. Rattan Kaur on 11.03.2021, the accused arrayed in the complaint in collusion with each other got entered one mutation No.3845 on 03.09.2021 by the Patwari, which was verified by the Halqa Kanungo on 06.09.2021 and sanctioned by Assistant Collector 2nd Grade, Hisar, on that very day i.e. 06.09.2021. According to this mutation, the property left by Smt. Rattan Kaur was mutated amongst all the legal heirs and representatives of deceased Ranjit Singh on the basis of natural succession, whereas, the same ought to have been mutated in favour of all the four natural legal heirs and representatives of Smt. Rattan Kaur. Accordingly, by virtue of mutation No.3845, effect of mutation No. 1020 stood nullified and the entire property left by Smt. Rattan Kaur was mutated in favour of all the natural legal heirs and representatives of deceased Ranjit Singh.

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6. Perusal of the records shows that in the judgment dated 28.09.2002 passed by learned Civil Judge (Junior Division), Hisar, irrespective of the findings on different issues, it was not in dispute that the final outcome of the suit was its



dismissal on account of being time barred. Appeal filed by the plaintiffs was also dismissed vide judgment dated 16.12.2005 passed by Additional District Judge, Hisar for the same reason that the suit was time barred and judgment of Civil Court was upheld in this regard. The same was upheld not only by this Court but till Supreme Court as well. Decision dated 19.03.2012 passed by the Hon'ble Apex Court being relevant is reproduced hereunder:-

“Heard Mr. K.K. Mohan, learned counsel for the petitioners.

The first Appellate Court recorded a finding of fact that the petitioners were having the knowledge of the decree dated October 28, 1971 from the date it was passed. In this backdrop of finding of fact the view taken by the High Court in affirming the judgment of the first Appellate Court and holding that the second appeal did not involve any substantial question of law cannot be said to suffer from any error of law.

Special Leave Petition is, accordingly, dismissed.”

7. *It is settled principle of law that when a claim is time barred, the same might still be valid, but it simply means that it is not enforceable in law which is also the situation in the present case. Therefore, once the substantial relief in the form of declaration claimed by the plaintiffs qua the decree dated*



28.10.1971 was declined on account of the same being time barred, as a natural corollary thereof, the decree dated 28.10.1971 could not be ignored, especially when no finding at all was recorded by any of the Courts that the decree dated 28.10.1971 was a result of fraud. Thus, the decree dated 28.10.1971 remained enforceable in law for all intends and purposes at the instance of decree-holder being its beneficiary and the parties to the said decree including their legal heirs/ successors were bound by it.

8. *Even private respondents/ accused persons were sanguine of this position and that is why no effort for getting any such mutation effected till 2021 was made by them. From the factual narrative of this case, it appears that after the death of mother of the petitioner on 11.03.2021, the private respondents sensed a fresh window of opportunity and again an attempt was made to sideline the rights settled in this case and even in the most surprising and shocking manner the judgment of the Hon'ble Apex Court was given a complete go by. When the revenue authorities, in connivance with accused persons, permitted a mutation contrary to the judgment of the Hon'ble Supreme Court, it not only disregarded the sanctity of legal verdicts but also undermined the rule of law. Such actions warranted swift and decisive legal recourse to uphold justice and restore faith of common man in the legal system.*



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11. *In view of the discussion made above, the Divisional Commissioner, Hisar, is directed to personally look into the matter and carry out fair and impartial inquiry, in terms of the preceding observations and also file his own affidavit about the action taken against the officers concerned including the proceedings contemplated against the private respondents, including civil/ criminal/ departmental. The aforementioned exercise be concluded within a period of two months from today.”*

10. The said judgment was challenged in SLP and the same was dismissed. Hence, the judgment dated 25.06.2024 became binding between the parties.

11. It was in compliance thereto that the enquiry report has been submitted by the Commissioner. Relevant extract thereof reads thus:-

“After going through entire records deponent reached at the conclusion that final outcome of Decree No.339 of 1971 dated 28.10.1971 was found to be time barred by Hon'ble Civil Judge (Junior Division), Hisar same was upheld by Hon'ble Court of Additional District Judge (on issue no. 5), Hon'ble High Court and Supreme Court as well; resultant Decree No. 339 of 1971 dated 28.10.1971 is legal, valid and reached to its finality in favour of Decree Holder Smt. Rattan Kaur and after her death mutation could have been recorded in



favour of her all legal heirs. But after death of Smt. Rattan Kaur an application moved by Shri Kanwal Singh for cancel the mutation No. 1020 and sanction and enter the mutation among all the legal heirs of deceased Shri Ranjit Singh; merely on the basis of legal opinion obtained from the then Assistant District Attorney, office of the Deputy Commissioner, Hisar. On 03.09.2021, mutation No. 3845 was entered by Shri Kapil Dev, the then Patwari, on 06.09.2021 said mutation was verified by Shri Dev Karan, the then Kanungo and was sanctioned by Shri Lalit Kumar, the then Naib Tehsildar, Hisar on 06.09.2021. Thereafter, an application moved by Ms. Sucheta Ahlawat D/o Smt. Rattan Kaur regarding cancellation of mutation No. 3845 dated 06.09.2021 and restoration of mutation No. 1020- and taking action against the responsible person but same was filed again on the basis of legal opinion given by the then Assistant District Attorney, office of the Deputy Commissioner, Hisar in this context.

Hence without going into the merit of case and applying the mind, merely try to find excuses and shelter under the legal opinion obtained from the Assistant District Attorney, office of the Deputy Commissioner, Hisar, mutation was entered and verified wrongly by revenue officials and sanctioned wrongly by Naib Tehsildar, Hisar is serious lapse on their part.



In this matter, Shri Lalit Kumar, the then Naib Tehsildar Hisar, Shri Dev Karan the then Field Kanungo and Shri Kapil Dev the then Patwari are accountable for wrongly entering and sanctioning mutation No. 3845 dated 06.09.2021.

Simultaneously Assistant District Attorney, office of the Deputy Commissioner, Hisar while giving opinion one and after did not apply his mind and wisdom. His wrong interpretation, upside down opinion about a time barred decree undo the meaning of the judgment passed by Hon'ble Civil Court (Junior Division) to Hon'ble Apex Court, hence accountable for such act and conduct.

A copy of Inquiry Report be forwarded to Deputy Commissioner, Hisar with a direction to take disciplinary action against Field Kanungo and Patwari being competent authority.

In addition to above, a copy of Inquiry Report be forwarded to the Financial Commissioner Revenue and Additional Chief Secretary to Govt. Haryana, Revenue & Disaster Management Department (being competent authority) with a request to take disciplinary action against Shri Lalit Kumar, the then Naib Tehsildar, Hisar.

As far as taking disciplinary action against the then Assistant District Attorney, office of Deputy Commissioner, Hisar, a copy of Inquiry Report be forwarded to the Director



General, Prosecution Department, Haryana being competent authority.”

12. It is thus evident that the Commissioner noticed the record and submitted his report against all who were involved *prima facie*. It is evident that all documentary evidence which the petitioner is relying on has already been taken into consideration by the Commissioner and counsel has failed to point out how the conclusions are illegal. The entire case is based on documentary evidence, hence, individual hearing was not required for submission of a report.

13. The report having been submitted by him on directions of the Court, the petitioner cannot claim it as a prejudice since the petitioner highlighted this aspect before the Hon’ble Supreme Court of India, but the apprehension was found to be baseless. The operative part of the order of the Hon’ble Supreme Court of India in SLP No. 11570/2021 dated 02.04.2025 reads thus:-

“The grievance of the petitioner is against the following direction of the High Court:-

“11. In view of the discussion made above, the Divisional Commissioner, Hisar, is directed to personally look into the matter and carry out fair and impartial inquiry, in terms of the preceding observations and also file his own affidavit about the action taken against the officers concerned including the proceedings contemplated against the private respondents, including



civil/criminal/departmental. The aforementioned exercise be concluded within a period of two months from today.”

2. *Learned Senior Counsel for the petitioner submits that pursuant to the order dated 27.02.2024, the Commissioner has submitted a report, which is factually incorrect and he is now left remediless as the said report is under the direction of the Court, which in fact makes it unassailable.*

3. *We find such submissions to be erroneous for the simple reason that it is a separate cause of action and the petitioner is not precluded from challenging it before the appropriate forum, in accordance with law. We further make it clear that the observation(s) made in the impugned order will also not be prejudicial to either of the parties in any collateral proceedings.*

4. *Having considered the matter in totality, we do not find any ground to interfere in the order impugned. Accordingly, the Special Leave Petition stands dismissed.*

5. *Pending application(s), if any, shall stand disposed of.”*

14. The petitioner has thus filed the instant petition more as a means to bye-pass the judgment dated 25.06.2024 passed by this Court and the virtually annul the effect thereof. The petitioner still insists, without any fresh material, that the mutation was rightly sanctioned notwithstanding the High Court having expressed its opinion against the same.

15. Once the report of the Deputy Commissioner, which is being



relied upon by the petitioner, had already been considered by the High Court in its judgment dated 25.06.2024, not much reliance or significance can be placed on the same, at this state.

16. The institution of the present petition is, therefore, nothing more than an ancillary proceeding aimed at stalling the effect and implementation of the order dated 25.06.2024 passed in CRM-M-7338-2024, by the individuals who were involved in sanctioning the mutation, despite the unsuccessful challenge by the beneficiary of mutation No.3845.

17. Such a tendency of litigation aimed at obstructing the process of law and preventing it from taking its course deserves to be deprecated. The enquiry report submitted by the Divisional Commissioner is not as an act of the appellate authority under the provisions of the Haryana Revenue Patwaris (Group C) Service Rules, 2011, but is an administrative act in compliance with an order passed by the High Court on 25.06.2024. It cannot, therefore, be construed as an order of punishment or as the dismissal of an appeal. The report has been forwarded to the competent authority, i.e., the Collector, for consideration of the matter and the passing of an appropriate order.

18. The law needs no elucidation that the High Court does not sit as a Court of appeal to threadbare re-examine the disciplinary proceedings. The same are not to be re-appreciated at the initial stages. A final decision has so far not been taken. The report is at best a fact finding report and petitioner shall have all the opportunity to reply to the same and submit his defence. There is no reason for this Court to pre-empt the proceedings and



seize the departmental process. Once all remedies are available to the petitioner, there is no reason for this Court to usurp the administrative process and discretion of the competent authority. The report being more in the nature of a preliminary enquiry under the orders of High Court, it could be conducted *ex parte* as per the judgment of the Hon'ble Supreme Court in the matter of **Champaklal Chiman Lal Shah Vs. The Union of India** reported as **AIR 1964 Supreme Court 1854** and even if there is any defect in the preliminary enquiry, it would not vitiate a full-fledged enquiry. The relevant part is extracted as under:-

*“13.In short a preliminary enquiry is for the purpose of collection of facts in regard to the conduct and work of a government servant in which he may or may not be associated so that the authority concerned may decide whether or not to subject the servant concerned to the enquiry necessary under Article 311 for inflicting one of the three major punishments mentioned therein. Such a preliminary enquiry may even be held *ex parte*, for it is merely for the satisfaction of government, though usually for the sake of fairness, explanation is taken from the servant concerned even as such an enquiry. But at that stage he has no right to be heard for the enquiry is merely for the satisfaction of the government and it is only when the government decides to hold a regular departmental enquiry for the purpose of inflicting one of the three major punishments that the government servant gets the protection of Article 311*



and all the rights that that protection implies as already indicated above. There must therefore be no confusion between the two enquiries and it is only when the government proceeds to hold a departmental enquiry for the purpose of inflicting on the government servant one of the three major punishments indicated in Article 311 that the government servant is entitled to the protection of that Article.....”

19. It is well settled that preliminary enquiry loses its significance after the full-fledged enquiry as held in **Narayan Dattatraya Ramteerthakhar Vs. State of Maharashtra and ors.** reported as **AIR 1997 SC 2148**. The relevant extract is outlined below:-

“3. The preliminary enquiry has nothing to do with the enquiry conducted after the issue of the charge-sheet. The former action would be to find whether disciplinary enquiry should be initiated against the delinquent. After full-fledged enquiry was held, the preliminary enquiry had lost its importance.”

20. Since the petitioner has all available departmental remedies under the Haryana Revenue Patwaris (Group C) Service Rules, 2011, to challenge any final order that may be passed by the competent authority in accordance with the law, it would not be appropriate to scuffle the proceedings at the first stage itself.

21. The argument that the only probable conclusion or culmination of the proceedings would be the imposition of a penalty on the petitioner is



also premature at this juncture. This Court is not required to preempt the possible outcome. Undisputedly, the order dated 02.09.2024 suspends the petitioner and directs the issuance of a charge-sheet, in accordance with the provisions of Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016.

22. The institution of the present petition is primarily aimed at stalling the initiation of disciplinary proceedings, and this Court would not be inclined to interfere at such an early stage, particularly when the initiation of such proceedings follows this Court's earlier finding that the sanction of mutation was not based on valid reasons and was not motivated by ill intentions.

23. For the reasons as aforesaid, the present writ petition is *dismissed in limine*.

(VINOD S. BHARDWAJ)
JUDGE

30.04.2025

Mangal Singh

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