

**CM-51, 53 & 54-CWP-PIL-2021 in/&
CWP-PIL-29-2021 (O&M)**

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Court on its own Motion Vs. State of Punjab & ors.

Present : Mr. Rupinder S. Khosla, Sr. Advocate with
Mr. Sarvesh Malik, Advocate as amicus curiae.
Mr. SPS Tinna, Addl. A.G. Punjab.
Mr. Ankur Mittal, Addl. A.G. Haryana.
Mr. Sumeet Goel, Sr. Advocate with
Ms. Shubra Singh, Advocate for the CBI.
Mr. Jaivir Chandail, Advocate for the U.T. Chd.
Mr. Satya Pal Jain, Addl. Solicitor General of India with
Mr. Dheeraj Jain, Sr. Counsel for respondent no. 3.
Mr. C.M. Munjal, Advocate for the applicant.
Mr. Avdhesh Kumar Mishra,
Principal Director of Income Tax (Investigation).
Mr. S. Ravichandran, Sspecial Director, Enforcement Directorate.

Case has been taken up on Video Conferencing in view of COVID-19

Pandemic.

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On the last date of hearing, this court was pleased to pass the following order in CM-51, 53 & 54-CWPIL-2021 :-

“Case has been heard through Video Conferencing on account of COVID-19 Pandemic.

Applicant seeks impleadment on the ground that complete list of cases pending against sitting MLA from Atam Nagar Assembly constituency, namely, Simarjeet Singh Bains has not been furnished by the State. This apart, he submits that investigation has hardly made any progress in any of the cases pending against him. Applicant claims to be a victim of rape at the hands of the accused. His grievance is that the police has not proceeded further with the investigation. According to him, FIR was registered after application under Section 156(3) of the Code of Criminal Procedure was filed before the concerned Magistrate at Ludhiana and the order passed therein. However, the said order was challenged before this Court but petitioner remained unsuccessful. As per learned counsel, yet the police is sitting tight over the matter and not conducting any

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investigation because of influence of the MLA. According to him, the matter falls within the ambit of the supervision of such cases as laid down by the Hon'ble Supreme Court in Ashwani Kumar Upadhyay v. Union of India and another WP(Civil) No. 699 of 2016.

Main case is pending for 19.8.2021. A copy of the application be furnished to the State of Punjab. The prayer for impleadment shall be considered on the said date.

Meanwhile, the State of Punjab may also seek instructions as regards the aforesaid contentions and assist in the matter.

To come up on the date fixed.”

Mr. Tinna, learned Additional Advocate General, Punjab submits that still he does not have complete instructions in the matter and needs more time to file an affidavit.

No clear response is forthcoming as per the query raised by the Bench on the last date of hearing. We are not inclined to grant further time. Purely in the interests of justice, however, one opportunity is granted. He shall be at liberty to seek instructions from Director General of Police, Punjab and apprise the court about the number of cases pending against Simarjeet Singh Bains and stage of investigation after registration of case against him by virtue of order passed by the concerned Magistrate at Ludhiana under section 156(3) Cr.P.C.

CWP-PIL-29-2021 (O&M)

At the outset, Mr Jain submits that in order to ensure compliance of orders passed by Hon'ble Supreme Court in *Ashwani Kumar Upadhyay v. Union of India and another WP(Civil) No. 699 of 2016*, the order shall be brought to the notice of the concerned courts.

Pursuant to order dated 27.07.2021, report has been received from the court of Jagjit Singh, Special Judge, CBI Court, Chandigarh. Copy thereof be

made available to Mr. Sumeet Goel, learned senior counsel representing the CBI to enable him to assist on the next date of hearing.

At this stage, Mr. Khosla learned amicus curiae has pointed out that in all those cases where stay is operating, respective investigating/prosecuting agencies need to move an application for vacation of stay in view of *Ashwani Kumar Upadhyay's case (supra)*.

Learned counsel representing various investigating agencies as well as prosecution assure the court that this matter shall be looked into and all earnest efforts shall be made before the next date of hearing. This court has no hesitation in making it clear that in case needful is not done, it has no option but to seek personal appearance of all the senior Officers who are entrusted with supervising the stage of pending investigations/trials.

By the next date of hearing, registry may supply a list of cases pending against MPs/MLAs in this court whether in the nature of civil or criminal proceedings.

To come up on 03.09.2021.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

August 19, 2021
Ajay