

116 CWP-PIL-29-2021 WWW.LIVELAW.IN

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 & Mr. A.K. Ranolia, Advocates for CBI.
Mr. Pankaj Jain, Sr. Standing counsel with
Mr. Jaivir Chandail, Advocate for U.T. Chd.
Mr. J.S. Toor, Advocate for U.T. Chd.
Mr. Satya Pal Jain, Addl. Solicitor General of India with
Mr. Dheeraj Jain, Sr. Counsel for respondent no. 3.

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

State of Punjab seeks to place on record additional affidavit of Gursharan Singh Sandhu, Inspector General of Police, Crime, Bureau of Investigation, Punjab. Mr. Tinna has referred to paras 3 & 4 thereof. According to him, in compliance with the order passed by Hon'ble Supreme court, an affidavit of Arun Pal Singh, Inspector General of Police, Litigation, Bureau of Investigation, Punjab was filed giving the compilation of date regarding criminal cases registered against MPS and MLAs (sitting or erstwhile) in the State of Punjab. He further submits that in furtherance to the direction of the court, Inspector General of Police, Crime-II, Bureau of Investigation has been nominated as Nodal Officer for fortnightly review of criminal cases registered against MPS/MLAs (sitting or erstwhile) which are under investigation of the Police and sincere efforts are being made to ensure compliance of the directions issued by Hon'ble Supreme court as well as this court. According to him, a letter has been written to field units in the State of Punjab to ensure compliance. We have taken the affidavit on record and impressed upon the investigating agencies of Punjab to ensure expeditious completion of investigation in all the pending cases. In case

this court finds that there is any unnecessary delay, it shall have no option but to seek explanation of the concerned investigating officers.

Mr. Ankur Mittal, Addl. A.G. Haryana, submits that in those cases where investigation is pending, same are being reviewed by the Nodal Officer Mr. Sanjay Kumar, Inspector General of Police, Law & Order (Administration). It is also being examined whether there has been any undue delay in investigation and reasons thereof. He further assures the court that no further delay shall be brooked by the State in view of clear direction in case tilted as *Ashwani Kumar Upadhyay Vs. Union of India & anr. WP (Civil) No. 699 of 2016.*

Mr. Satya Pal Jain, Addl. Solicitor General of India submits that pursuant to order dated 19.07.2021, affidavit of Avdhesh Kumar Mishra, Principal Director of Income Tax (Investigation), Punjab & Jammu & Kashmir has been filed. He has referred to para 3 thereof. Same reads as under:-

“3. That it is submitted that the one criminal case instituted by the Central Board of Direct Taxes (Income Tax Department) against the MLAs/former MLAs under the Income Tax Act, 1961 is pending before the Ld. Chief Judicial Magistrate Court, Ludhiana as on date, the details of which is as under:-

<i>S.No</i>	<i>Name of Elected Representative</i>	<i>Whether MP/Ex-MP, MLA/EX-MLA</i>	<i>Case No.</i>	<i>Name of court</i>	<i>Remarks</i>
<i>1</i>	<i>Amrinder Singh</i>	<i>MLA from Patiala (Now Chief Minister of Punjab)</i>	<i>COMA/1 212/201 6/</i>	<i>CJM Court, Ludhiana</i>	<i>Pre Summoning Evidence</i>

He has also filed status report on behalf of Enforcement Directorate. Referring to para 5 thereof, he submits that a criminal case was instituted by Directorate of Enforcement against Sukhpal Singh Khaira, sitting MLA. He, however, preferred CWP-6429 of 2021 and CWP-10754-2021 before this court. According to him, investigation is now held up in view of interim directions given

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in the said writ petitions. He has also pointed out that another case was instituted by Directorate of Enforcement against Bhupinder Singh Hooda, sitting MLA. CWP-12736-2021 has been filed in this court wherein following order was passed on 14.07.2021:-

“In view of the joint request of both the sides, the trial Court is directed to adjourn the matter to a date after the date fixed by this Court, without insisting on the presence of the accused tomorrow.”

He submits that he shall apprise the court of further progress on the next date of hearing.

Mr. Sumeet Goel, learned senior counsel representing the CBI has referred to reply dated 27.07.2021 filed by CBI, Special Criminal Branch, Chandigarh. He has referred to various cases pending against MPs/MLAs. He has made a particular reference to an FIR dated 04.05.2011 registered under section 8 of the Prevention of Corruption Act, 1988. According to him, trial in the said case is pending at Special court, Chandigarh but has not made any headway despite it being at the stage of culmination. A report be sought from the Special court, CBI, Chandigarh as regards the reasons for delay in concluding the trial.

Pursuant to order dated July 198, 2021, report has also been submitted by Registrar (General), Punjab & Haryana High Court. Same is taken on record. A copy thereof be furnished to learned amicus curiae.

To come up on 19.08.2021.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

July 27, 2021
Ajay