

CM-47-CWPIL, 48-CWPIL and 51-CWPIL of 2019 in
CWP-PIL No.154 of 2019

Court on its own motion vs. State of Haryana

Present: Mr. B. R. Mahajan, Advocate General, Haryana with
Mr. Lokesh Sinhal, Additional Advocate General,
Haryana
Mr. Satya Pal Jain, Additional Solicitor General of
India with
Mr. Chetan Mittal, Assistant Solicitor General of
India
Mr. Pankaj Jain, Senior Standing Counsel, U.T.,
Chandigarh with Shri Manoj Parida, IAS, Adviser,
U.T., Chandigarh, Shri Sanjay Beniwal, IPS, DGP,
Chandigarh, Shri Arun Gupta, IAS, Home Secretary
and Senior Superintendent of Police, Chandigarh
Mr. DPS Randhawa, Advocate, President of the Bar
Association, High Court, Chandigarh with
Mr. Rohit Sud, Advocate/Secretary, High Court Bar
Association

In pursuance to notice issued by us yesterday, i.e.,
13.08.2019, the President and the Secretary of the Bar
Association; I learned Additional Solicitor General of India,
representing Union of India; I learned Advocate General,
representing the State of Haryana and Shri Pankaj Jain, Senior
Standing Counsel, along with the Adviser, the Home Secretary,
the Director General of Police and the Senior Superintendent of
Police, Union Territory, Chandigarh, are present.

As soon as the proceedings commenced, the President
and the Secretary of the Bar Association passed on to us a
representation of the Association dated 09.08.2019 made to the
Chief Minister, Haryana, with respect to notification dated
24.07.2019, constituting the Haryana State Administrative
Tribunal in the State of Haryana along with an order dated
12.08.2019 of the State Government constituting a committee
headed by the Chief Secretary, Government of Haryana along with

concerned officers, Chairman, Bar Council of Punjab and Haryana, President and Honorary Secretary, Punjab and Haryana High Court Bar Association, nominee of Advocate General, Haryana and representatives of the employees as its members to consider and submit a report about legality, viability and workability of the Haryana Administrative Tribunal. The representation of the Bar Association dated 09.08.2018 and memo of the State Government dated 12.08.2019 are taken on record.

The representation records the concerns of the Bar Association with respect to curtailment of power of judicial review conferred upon this Court under Article 226 of the Constitution of India by constituting an alternative institutional mechanism by way of a Tribunal. Reference has been made in the representation to some of the pronouncements of the Hon'ble Apex Court to support their contention that constitution of a Service Tribunal directly affects the power of judicial review of the Court and, thus, is not legal and in accordance with the mandate of the Constitution. The crux of the representation is that constitution of the Haryana Administrative Tribunal is constitutionally ultra vires and null and void.

In response to the said representation, the State Government, as already noted above, has issued an order constituting a Committee to consider the issues raised by the Bar Association in its representation dated 09.08.2019 pertaining to legality, viability and workability of the Haryana Administrative Tribunal. It may be apt to reproduce the relevant part of the order of the State Government dated 12.08.2019: -

"Please refer to your meeting along with other representatives of the Bar Association with the Hon'ble Chief Minister, Haryana at Delhi on 09.08.2019.

The Hon'ble Chief Minister, Haryana has ordered that a Committee headed by the Chief Secretary to Government of Haryana, concerned officers, Chairman, Bar Council of Punjab and Haryana, President and Honorary Secretary, Punjab & Haryana High Court Bar Association, nominee of Advocate General, Haryana and representatives of the employees be constituted to report about legality, viability and workability of Haryana Administrative Tribunal. Formal orders constituting the Committee would be issued separately. This is for your information please."

It may be relevant to mention here that this Court has already intervened in the matter by registering this public interest litigation and passing interim directions on 02.08.2019 deferring the implementation of the notification dated 24.07.2019 constituting the Tribunal with a further direction that fresh cases as well as pending cases shall continue to be entertained by the High court and the District Courts in Haryana till further orders. Needless to observe that by constituting a Committee to consider and report about legality, viability and workability of the Administrative Tribunal, the State Government has also deferred the constitution of the Tribunal till the report of the Committee is available.

In the wake of the above developments, the President and the Secretary informed the Court that Bar Association shall not cause any obstruction, from today onwards, in the ingress and egress of the litigants and/or any other person, duly authorised, to the premises of the High Court. It has further been informed that the Executive Committee shall take a decision about the mode and manner of their protest and shall come up with their stand when the matter is next taken up on Friday, the 16th August, 2019. All the officers, who are present today in person, are requested to be present on the said date at 11.00 A.M., when the matter shall be taken up.

(KRISHNA MURARI)
CHIEF JUSTICE

(RAJIV SHARMA)
JUDGE

(RAKESH KUMAR JAIN)
JUDGE

14.08.2019
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