

SURJIT SINGH V/S STATE OF PUNJAB AND OTHERS

Present: Mr. Balbir Kumar Saini, Advocate
for the petitioner.

Mr. H.S. Grewal, Addl. A.G., Punjab.

Mr. S.P. Jain, Additional Solicitor Genral of India with
Mr. Dheeraj Jain, Advocate for respondent No.5.

Mr. Kshitij Sharma, Advocate as *amicus curiae*.

Heard through video conferencing.

Learned counsel for the petitioner had, *inter alia*, contended that an FIR was registered against the petitioner. He was dismissed from service by SSP but was reinstated by the order of the Inspector General of police. Despite his reinstatement by the I.G., the petitioner has again been dismissed by the SSP by the order dated 23.06.2020, which is impugned in this petition. He had submitted that there are several police officers who are facing serious charges and some of them have been convicted but they are continuing in service. This Court, by the order dated 03.09.2020, had directed the respondent No.1 (Secretary, Ministry of Home Affairs, Punjab) to file an affidavit, setting out the details of the FIRs registered against all serving police officers in the State of Punjab including their nature and status. The current posting of the officers was also to be mentioned therein.

An Affidavit was filed by Sh. Vijay Singh Chauhan, Deputy Secretary, Department of Home Affairs and Justice, Punjab on 08.10.2020 on behalf of respondent No.1, disclosing the names of officers, who were facing criminal cases. Counsel for the petitioner had contended that the entire information, as sought by this Court, has not been disclosed and there

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are several police officers, who are facing criminal cases but their names have not been mentioned. Thereafter, by the order dated 28.10.2020, this Court had directed the Additional Chief Secretary, Department of Home Affairs and Justice, Punjab to file an affidavit setting out the details of the police officers and status of the cases registered against them.

An affidavit was filed by the Additional Chief Secretary, Department of Home Affairs and Justice, Punjab on 10.12.2020. A coordinate Bench of this Court, by the order dated 14.01.2021, had directed the Additional Chief Secretary, Department of Home Affairs and Justice, Punjab to personally look into the matter and to ascertain if the factual aspects are correct. Consequently, an affidavit was filed by the Additional Chief Secretary, Department of Home Affairs and Justice, Punjab on 01.02.2021. The coordinate Bench of this Court, by the order dated 11.02.2021, had expressed displeasure at the non-disclosure of the information sought. The Court observed that it appears that efforts have been made to help officers. The matter was directed to be listed before this Bench after obtaining orders from the Chief Justice.

Relevant part of the order dated 11.02.2021 is extracted hereunder:-

“A perusal of additional affidavit dated 01.02.2021 sworn by Additional Chief Secretary, Department of Home Affairs and Justice, Punjab reveals a candid admission by him qua certain false information disclosed in his earlier affidavit dated 10.12.2020. The justification rendered thereto is that deponent was misled into in deposing

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wrongly based on wrong/filtered information provided by certain erring officials, against whom, it is stated that disciplinary action is being initiated in accordance with law. However, what is rather intriguing is that it is seemingly a case of shooting the messenger. The person who acted merely as Postman to supply the information is being proceeded against, while there is stoic silence qua the beneficiaries of the said wrong information, at whose instance and to protect whom, wrong information was provided.”

It is apparent that the information as sought by this Court was not forthcoming and several opportunities were accorded to the respondents to file affidavits, setting out the required information. The Additional Chief Secretary, Department of Home Affairs and Justice, Punjab should have taken due care and caution as it is expected from the administrative Head of the Department to disclose the entire information as had been sought by the Court.

Concealment or not disclosing the information sought, amounts to swearing a false affidavit. The filing of false affidavit has the tendency to subvert, obstruct, impede and interfere in the due course of judicial proceedings, which cannot be overlooked especially when the affidavit has been filed by a senior government officer. Besides, contempt of court, filing of a false affidavit, would amount to giving false evidence under Section 191 IPC and would be punishable under Section 193 IPC. Before directing institution of a criminal complaint before the competent Judicial Magistrate

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for the prosecution of the officer for perjury, I deem it appropriate to issue him notice.

Therefore, notice is issued to Mr. Anurag Aggarwal, Additional Chief Secretary, Department of Home Affairs and Justice, Punjab to show cause, why directions be not issued for filing a complaint with the judicial magistrate for the offence of perjury, punishable under Section 193 IPC. He may file his reply within a period of four weeks.

The names of the officers who are facing criminal cases have been set out in the Annexure along with the affidavit. It is disquieting to note that Mr. Rajinder Singh Sohal who has been convicted in a criminal case, is posted as SSP of Gurdaspur district. He has been convicted under Sections 342, 343, 346 and 365 read with Section 34 IPC in a CBI case bearing RC No.5(s)/95/SIU-II/ New Delhi, dated 23.08.1995 and sentenced to imprisonment for a period of three years by the Additional Sessions Judge, Patiala on 11.03.2013. He has preferred his appeal bearing CRA-S No.879-SB-2013, which is pending adjudication before this Court. His sentence had been suspended by the trial Court and the same has been extended by this Court. However, his conviction has not been stayed. A perusal of the record indicates that no application for stay of conviction has been preferred by the officer. Another disturbing aspect is that he is a Punjab police service officer and has been posted as SSP, Gurdaspur which is an IPS cadre post. In response to query of this Court, learned State counsel has informed that Mr. Rajinder Singh Sohal is at serial No.636 in the PPS seniority list. He, however, submits that the matter pertaining to *inter se* seniority of the PPS officers is pending adjudication before this court. The continuation of such an officer at the post of SSP, who is the district head of the police force,

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would erode the confidence of the people in the police administration apart from being an affront to the rule of law. Therefore, the competent authority should consider transferring him from the post forthwith.

I have been informed that there are several other PPS officers, who have been posted as SSPs of various districts in violation of the Indian Police Service (Cadre) Rules, 1954 read with Indian Police Service (Fixation of Cadre Strength) Regulations, 1955. I deem it appropriate to implead the Union of India through Secretary, Ministry of Home Affairs as respondent No.5 to assist the court to look into these apparent violations.

At the asking of the Court, Mr. S.P. Jain, Additional Solicitor General of India along with Mr. Dheeraj Jain, Advocate accept notice on behalf of respondent No.5.

It is apparent that there is arbitrariness in dealing with officers facing criminal cases which is the grouse of petitioner. In our system of governance administered by rule of law, the government cannot act like an absolute despot at its whims and fancies by patronizing certain officers while imparting a step-motherly treatment to others. It is, thus, the need of the hour to put in place a proper structure. Mr. Kshitij Sharma, Advocate is appointed as *amicus curiae* to assist the court.

The Registry is directed to supply copies of the paper book to Mr. S.P. Jain, Additional Solicitor General of India, Mr. Dheeraj Jain, Advocate and Mr. Kshitij Sharma, Advocate, learned *amicus curiae*.

The respondent No.1 shall file an affidavit by the next date to explain as to why PPS officers have been posted as SSPs of several districts on IPS cadre posts.

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It has been stated in the affidavit by the Additional Chief Secretary, Department of Home Affairs and Justice, Punjab that the State has taken a decision to constitute a committee to frame a policy with regard to action to be taken in those cases where the police officers have been convicted. Learned State counsel submits that the committee is headed by the Additional Chief Secretary, Department of Home Affairs and Justice, Punjab. He also submits that Mr. Parmod Kumar, Director General of Police, Provisioning and Modernization and Mr. Amarjot Singh Gill, Former Director General of CRPF have been included in the committee. He seeks more time to enable the committee to frame a policy.

The committee shall also examine the issue of officers against whom FIRs have been registered and trials are pending as there has to be uniformity in dealing with such cases on the basis of their nature and gravity.

It is further directed that till the committee arrives at a decision and considers the individual cases of the officers, no police officer who is charge-sheeted and / or convicted in a criminal case involving moral turpitude, shall remain posted at a post having public dealing. Furthermore they shall not be assigned investigation, either as investigating officer or in a supervisory capacity and will not be posted in the vigilance bureau till the final decision is taken by the committee. They shall also not be posted in the district where their criminal case is being tried.

Status report with regard to the progress made by the committee shall be filed before the next date of hearing.

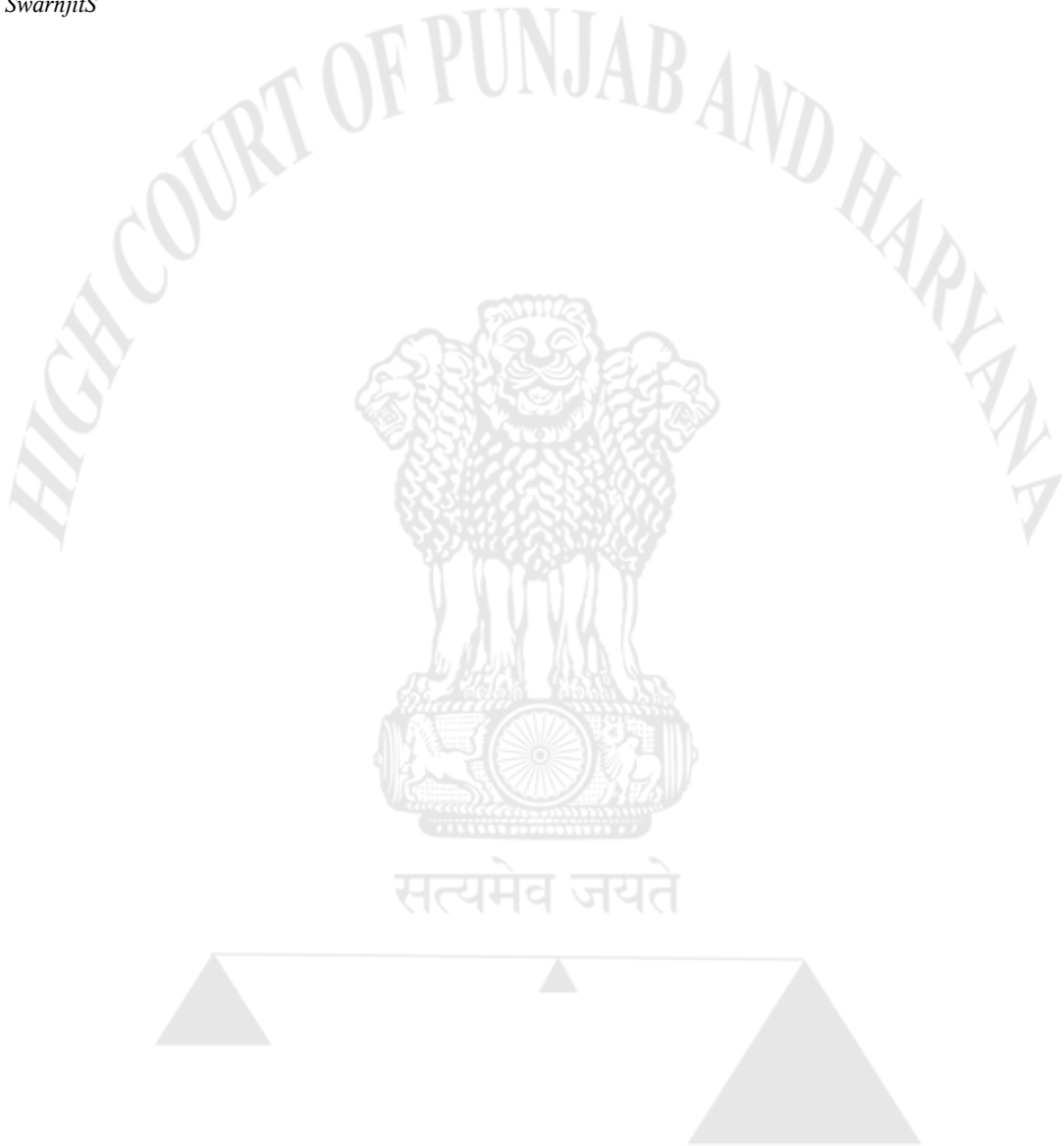
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The prayer of the petitioner for interim relief shall also be considered on the next date of hearing.

List on 28.04.2021.

(ANUPINDER SINGH GREWAL)
JUDGE

15.03.2021
SwarnjitS



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