

(2010) 09 P&H CK 0260

High Court Of Punjab And Haryana At Chandigarh

Case No: C.W.P. No. 16087 of 2010

Nazir Masih and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision: Sept. 9, 2010

Acts Referred:

- Constitution of India, 1950 - Article 226, 227

Hon'ble Judges: Ajai Lamba, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Ajai Lamba, J.

This petition under Articles 226/227 of the Constitution of India has been filed praying for issuance of a writ in the nature of mandamus for grant of relief/benefits in terms of judgment rendered by this Court while dealing with CWP No. 15554 of 2007 Gian Chand and Ors. v. State of Punjab decided on 21.07.2008.

2. Learned Counsel for the petitioners contends that the issue was raised before this Court. A Division Bench of this Court while dealing with the same has quashed Circular dated 29.07.2003, which is under challenge in this petition also.

3. Notice of motion.

4. On the asking of the Court, Shri B.S. Chahal, Deputy Advocate General, Punjab accepts notice on behalf of the respondents.

5. Copy of the petition has been handed over to Shri Chahal.

6. Learned Counsel for the parties pray that the matter be disposed of at this stage itself, in view of peculiar facts and circumstances of the case.

7. Learned Counsel for the respondent-State contends that, indeed, the issue is covered by judgment rendered by this Court in Gian Chand's case (supra). Circular

dated 29.07.2003 has been quashed by this Court.

8. Learned Counsel for the respondent-State, however, states that the State of Punjab has gone up in appeal before the Hon"ble Supreme Court of India against the judgment rendered in Gian Chand"s case (supra), by way of filing a SLP bearing No. 25856 of 2008, which is pending.

9. In view of the conceded position that this petition is covered by the judgment rendered by this Court in CWP 15554 of 2007 Gian Chand and Ors. v. State of Punjab decided on 21.07.2008, this petition is allowed in the same terms.

10. It is, however, made clear that this order shall remain subject to the outcome of the SLP No. 25856 of 2008 pending in the Hon"ble Supreme Court of India and the petitioners shall be entitled to seek implementation of the judgment through contempt or otherwise only after disposal of the Special Leave Petition.