

(2008) 01 P&H CK 0248

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Original Contempt Petition No. 2 of 2007

Raj Kumar

APPELLANT

Vs

Shri Rattan P. Wattal IAS,
Director General, Sports
Authority of India and others

RESPONDENT

Date of Decision: Jan. 10, 2008

Acts Referred:

- Contempt of Courts Act, 1971 - Section 2(c)
- Penal Code, 1860 (IPC) - Section 420, 467, 468, 471
- Prevention of Corruption Act, 1988 - Section 13(1)(d), 13(2)

Hon'ble Judges: S.D. Anand, J; A.K. Goel, J

Bench: Division Bench

Advocate: G.S. Chauhan Advocate for the Respondent Nos. 1 to 5, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Adarsh Kumar Goel, J.

This petition seeks initiation of contempt proceedings against the respondents u/s 2(c) (ii) and (iii) of the Contempt of Courts Act, 1971 (in short, "the Act").

2. The petitioner is a Stenographer in the Sports Authority of India. The respondents are holding various positions in the Sports Authority of India. The averments in the petition are that the petitioner filed Criminal Misc. No. 69993-M of 2006 and Criminal Misc. No. 9444 of 2007 with a grievance that no action was being taken on his complaint dated 19.6.2006. One of the petitions came after hearing on 9.11.2006 and following order was passed:

"It is pleaded that the petitioner is an employee of Sports Authority of India, Northern Regional centre. Clause 3.2.1 of Volume 1 Chapter III of Vigilance Manual issued by the Central Vigilance Commission, provides for entertainment of

complaints at the instance of employee of the organization or from public. The petitioner, being an employee, had made a complaint dated 19.6.2006, which has been placed on record as Annexure P.36, giving details of corruption prevalent. However, no action as required has been taken by respondent Nos. 1 and 3 by way of holding an inquiry under the Rules.

Notice of motion to respondents No. 1 to 3 only, for 16.1.2007."

Prayer in the above petition was for investigation of corruption in the Sports Authority of India by officers holding key posts. Case of the petitioner is that if enquiry was held by the CBI, a big scam may be unearthed.

3. It is further stated that after issuance of notice by above order, the petitioner made representation dated 15.11.2006 along with a copy of order dated 9.11.2006 and made a request for grant of leave as he apprehended danger to his life and liberty on account of his having levelled allegations of corruption against officers. He also sought release of salary which was being wrongly with-held since July 2006. On account of the said representation, the petitioner has been harassed by calling for his explanation and giving him threats of false implication in criminal cases including under the NDPS Act. He was not being paid his salary since July 2006. Six letters/notices have been issued to him including letters/notices dated 3.1.2007 and 17.1.2007. Letter dated 3.1.2007 states that explanation of the petitioner for wilful absence from duty was without any reasons. Notice dated 17.1.2007 is to the effect that a person transferred from one station to the other could keep accommodation only upto two months on nominal licence and upto six months on market rate, while persons transferred from Chandigarh in June 2005 were still occupying government accommodation, though posted at Northern Centre Office, Sonipat.

4. According to the petitioner, the said letters have been issued to create a ground for issuing charge sheet. The issuance of charge sheet amounts to adopting coercive methods on account of the petitioner having approached this Court for highlighting mass level corruption. The petitioner was being pressurised to withdrawn his petition or to face termination, implication in false cases and elimination.

5. Under Clause 3.3 of the Vigilance Manual, Volume 1 of the Central Vigilance Commission, a genuine complainant was entitled to protection against harassment or victimisation.

6. There was no enquiry pending against the petitioner till making his complaint dated 19.6.2006. About 1200 mass transfers were made for extraneous considerations out of total 1600 employees. 750 transfers were made by one stroke. Several transfers were cancelled.

7. On 16.1.2007, the petitioner filed additional affidavit in Criminal Misc. No. 9444 of 2007. On 5.3.2007, a misleading statement was made by the learned counsel for the

respondents that CVC was looking into the allegations. Notice was issued.

8. The petitioner has also filed an application dated 17.7.2007 for placing on record additional affidavit. In the additional affidavit, it has been stated that charge sheet dated 18.4.2007 was delivered at the residence of the petitioner on 24.4.2007 at 8.30 AM, two hours before hearing of the contempt petition, which was done to interfere with the administration of justice, to dissuade the petitioner from pursuing the contempt petition. An Enquiry officer was appointed on 14.6.2007. The respondents have defrauded the State exchequer to the extent of Rs. 500 crores. The petitioner has also been asked to surrender official accommodation vide notice dated 18.5.2007. The petitioner was also called by counsel for the respondents with a view to compromise the matter and on his refusal, notice dated 18.5.2007 for vacating the accommodation was issued. The petitioner was given threats when he appeared for departmental enquiry. Criminal case being FIR dated 13.12.1996 had been registered against respondent Nos. 4 and others under sections 12013, 420, 467, 468, 471 IPC and 13(2) read with section 13(1) (d) of the Prevention of Corruption Act, 1988.

9. In the reply filed by respondent No. 1, Director General, Sports Authority of India, it has been stated that allegations in the petition were wild and untenable and detailed reply stands filed by respondent No. 4 Director Incharge Sports Authority of India, Bahalgarh. The allegations in the complaint of the petitioner were being investigated at the level of CVO nominated by the Central Vigilance Commission, namely Shri I. Srinivas, Joint Secretary to Government of India, Ministry of Youth Affairs and appropriate steps will be taken on the receipt of report of the CVO.

10. Respondent Nos. 3 and 5 have also filed identical reply. Respondent No. 4 has stated that the petitioner was transferred from Chandigarh to Bahalgarh/Sonipat on 5.12.2005. He joined at Sonipat on 23.1.2006 and proceeded on earned leave from 30.1.2006 to 31.3.2006 without approval. He applied for leave again from 10.4.2006 to 28.4.2006 and joined back on 1.5.2006. On 4.5.2006, he again applied for leave from 8.5.2006 to 2.6.2006. He joined back on 5.6.2006. He left office on 22.6.2006 after marking attendance in advance on 23.6.2006. He applied for leave from 26.6.2006 to 21.7.2006, which was not approved. On 28.6.2006, he was given a warning for going on leave without approval. On 26.7.2006, his explanation was called for marking attendance in advance. He did not respond nor joined duty. His salary from July 2006 was stopped. His explanation was sought for wilful absence from duty vide letter dated 24.7.2006. Application dated 17.4.2006 was received from his wife for cancelling his transfer on health grounds. This was referred to Medical Board but the petitioner failed to appear before the Medical Board. The petitioner appeared for duty on 23.10.2006 and applied for 90 days leave, which was not approved. Notice to vacate government accommodation was issued to him, which was also issued to other employees. Approval for charge sheet was sought from the Head Office on 14.3.2007 and charge sheet was issued to him on 18.4.2007. Filing of

the petition was abuse of the court's process with a view to pressurise the administration to transfer him back to Chandigarh. No threat was issued to him. Enquiry Officer was a retired Joint Secretary of Government of India who is on the panel of Central Vigilance Commission. As regards FIR dated 13.12.1996, the competent court has acquitted all the accused after trial. Issues raised in the complaint were being Investigated at the level of Chief Vigilance Officer, Shri I. Srinivas.

11. The petitioner in his replication has stated that no investigation was being conducted by the Chief Vigilance Officer. The 'AAJ TAK News Channel' had showed a live news about malfunctioning of Steel Authority of India at Sonipat on 21.1.2006 at 5.30 PM. Allegation against the petitioner of inarking attendance in advance was an after-thought, after the petitioner made a representation for handing over investigation against the respondents to the CBI. The leave was intentionally not being given. The petitioner was not vacating the official accommodation at Chandigarh for want of basic amenities at Bahalgarh (Sonipat). Acquittal in the CBI case was not in accordance with law.

12. The petitioner in person also handed over written submissions to the effect that misleading affidavit could amount to contempt and taking of steps to dissuade a person from approaching the court could also amount to contempt. It has been further stated that investigation by the CBI against the respondents was not proper. resulting in acquittal vide judgment dated 28.5.2005. Several judgments on the issue of probity of persons in high offices and when criminal contempt is committed, have also been referred to. The said judgments are as under:

- (i) [Delhi Development Authority Vs. Skipper Construction and Another,](#)
- (ii) [Vineet Narain and Others Vs. Union of India \(UOI\) and Another,](#)
- (iii) [Union of India \(UOI\) Vs. Prakash P. Hinduja and Another,](#)
- (iv) [Dhananjay Sharma Vs. State of Haryana and Others,](#)
- (v) [In re: Vinay Chandra Mishra \(the alleged contemner\),](#)
- (vi) Giani Ram v. Ramnath Dutt, AIR 1955 Raj 123.
- (vii) [Gurcharan Das Chadha Vs. State of Rajasthan,](#)
- (viii) [Pratap Singh and Another Vs. Gurbaksh Singh,](#)
- (ix) In Re: Balwan Singh, 1997 (1) AICLR 344.
- (x) [Advocate-general, State of Bihar Vs. Madhya Pradesh Khair Industries and Another,](#)
- (xi) [Shankar Lal Sharma Vs. M.S. Bisht,](#)

(xii) V [T.N. Godavarman Thirumulpad through the Amicus Curiae Vs. Ashok Khot and Another,](#)

(xiii) State of Madhya Pradesh v. Ram Singh, 2000 (1) RCR (Cri) 784.

(xiv) [Parkash Singh Badal and Another Vs. State of Punjab and Others,](#)

(xv) [State of Rajasthan Vs. Shambhoogiri,](#)

(xvi) [State of Madhya Pradesh Vs. Shambhu Dayal Nagar,](#)

(xvii) Zahira Habibullah Sheikh and another v. State of Gujarat and others 2006(2) RCR.

13. We have heard the petitioner in person.

Learned counsel for the respondents did not make any submission and only stated that he was not ready with the case.

14. There is nothing to contradict the stand of respondent No. 4 that the petitioner was transferred on 5.12.1995 prior to his complaint dated 19.6.2006. The petitioner proceeded on earned leave without approval from 30.1.2006 to 31.3.2006. These allegations have not been made after the complaint of the petitioner. The petitioner has not vacated the official accommodation at Chandigarh. The respondents have been acquitted in the criminal case. We are not considering correctness of the said acquittal. Issues raised by the petitioner against the respondents were being looked into by the Chief Vigilance Officer Shri I. Srinivas and action will be taken in the light of report that may be submitted. There may or may not be substance in the allegations of the petitioner about corruption which is subject matter of separate proceedings as well as enquiry by Chief Vigilance Officer and we do not express any opinion on that issue. We also do not express any opinion on the issue whether there is justification for the petitioner not vacating official accommodation at Chandigarh or of having proceeded on leave without sanction, which is a subject matter of departmental proceedings.

15. The short question for consideration is whether taking of departmental proceedings can be held to be contempt

16. In Skipper Construction (supra), after referring to earlier judgment in [Advocate-general, State of Bihar Vs. Madhya Pradesh Khair Industries and Another,](#) it was observed that every abuse of the process of court may not necessarily amount to contempt but a course of conduct which makes mockery of judicial process, may amount to contempt. The conduct must prejudice administration of justice. In the facts of that case, it was found that in spite of finality of earlier decision, fresh suit was filed by abuse of the court's process.

17. In Vineet Narain (supra), it was observed that probity in public life is of great significance and the CBI was not required to seek prior sanction and by way of

judicial review, investigating process could be activated.

In Parkash P. Hinduja (supra), role of CVC vis-a-vis CBI was considered and it was observed that CBI was not required to obtain approval of CVC for filing a charge sheet.

In Dhananjay Sharma (supra), it was observed that filing of a false affidavit obstructed the course of justice and amounted to criminal contempt.

In Re: Vinay Chandra Mishra (supra), parameters for exercise of power of contempt were considered.

In Giani Ram (supra), serving of charge sheet by the Government to an employee who had moved the court, was disapproved as it was held that such a course amounted to indirect pressure on the petitioner.

In Partap Singh (supra), circular of the Government restricting the right of an employee to take recourse to court, was held to be obstructing the course of justice, Similar observations were made in Re: Balwan Singh (supra). Other judgments are more or less to the same effect.

18. In the present case, it cannot be held that initiation of proceedings against the petitioner was to dissuade him from pursuing his petition.

19. We do not find any ground to proceed with the contempt matter. We, however, make it clear that dropping of contempt proceedings may not be understood to permit any vindictive attitude being adopted. The respondents will be at liberty to take proceedings against the petitioner in a fair manner in accordance with law. The petitioner will be at liberty to pursue his petition without any obstruction, in accordance with law.

20. The petition is disposed of accordingly.