

105-2

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

COCP-2399-2017

Date of decision : 20.12.2023

Ram Singh**.....Petitioner****versus****J.K. Abhir, Deputy Commissioner, Fatehabad and another****..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. S.S. Sahu, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

*********RAJESH BHARDWAJ, J.**

Prayer in the present petition filed under Sections 10 and 12 of the Contempt of Courts Act, 1971 read with Article 215 of Constitution of India for initiation of contempt proceedings against the respondents for violating and disobeying the order dated 25.04.2017 passed in CWP-8380 of 2017 by this Court.

Learned counsel for the petitioner has submitted that aggrieved by the orders passed, the petitioner earlier assailed the same by way of filing CWP-8380-2017 titled as Ram Singh Vs. State of Haryana and others. He submits that notice of motion was issued and further proceedings before the Collector qua undertaking the task in view of the order of the Commissioner was stayed vide interim order dated 25.04.2017. Respondent No.5-Amrik Ram in CWP-17121-2017 filed an application in the CM Window on 18.05.2017 by levelling the allegations of illegal encroachment over the panchayat land against the petitioner. He

submits that on the basis of same allegations, the Appellate and Revisional Authority had remanded the case to the Collector for decision afresh but operation of the same was stayed by this Court in CWP No.8380-2017 vide order dated 25.04.2017. He has submitted that the report had already been submitted by the Sub Divisional Magistrate wherein the allegations regarding the encroachment made by the petitioner were found to be false. He has submitted that without taking into consideration the order passed by this Court, the Sub Divisional Magistrate, Ratia submitted the report to the Deputy Commissioner, Fatehabad by recommending the removal of the petitioner from the post of Lambardar. He has submitted that learned Deputy Commissioner dismissed the petitioner from the post vide impugned order dated 03.07.2017 which is passed by violating the order of the Court dated 25.04.2017 and as such respondents are liable to be punished for committing contempt of Court's order.

Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. She submits that one complaint of Amrik Singh regarding the illegal possession on Shamlat land under CM Window was received for action. The complaint was dealt with in the Branch headed by City Magistrate which is different than that of the Court of District Collector. This complaint was got enquired into by SDO(C), Ratia who submitted his enquiry reports dated 17.05.2017 and 18.05.2017 wherein SDO(Civil), Ratia had recommended for action against Ram Singh. On the said recommendation of the SDO(Civil), the order dated 03.07.2017 was passed by the then Deputy Commissioner on separate file other than the Court file. She submits that the order dated

25.04.2017 passed by this Court in CWP-8380-2017 regarding staying the proceedings before the District Collector was not brought to the notice of the Deputy Commissioner during the pendency of the complaint No.CM/OFF/N/2016/080914. She submits that during the hearing of Lambardari matter on the date fixed i.e. 07.07.2017, it was brought to the knowledge of the Collector that stay was granted by this Court in CWP-8380-2017 which was never brought on the file on which impugned order was passed and thus, the lapse occurred on the part of the District Collector was totally unintentional. Subsequently, the Lambardari proceedings before the Collector were adjourned *sine die* till the matter is decided by this Court. She has submitted that however, the impugned order dated 03.07.2017 had already been stayed by this Court vide order dated 24.08.2017 passed in CWP No.17121 of 2017. She has submitted that learned Deputy Commissioner by filing affidavit in CWP-17121-2017 has tendered his unqualified, unconditional apology for the lapse which took place unintentionally and as such the respondents be pardoned and the contempt proceedings against them be dropped.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that on the death of earlier Lambardar, Alladita, process for the appointment of new Lambardar was initiated and petitioner was appointed as Lambardar by the Collector vide his order dated 26.02.2016. However, the allegations regarding encroachment by the petitioner and being defaulter of the loan, he was found to be proved. It was also argued before the Appellate Court that the petitioner was involved in the criminal case but he was acquitted on the basis of compromise. Thus, in view of the law settled and the interest of justice,

learned Commissioner remanded the case to the Collector for decision afresh and the same was affirmed by the Revisional Court as well in the revision. However, the same was challenged before this Court by way of filing CWP No.8380-2017 in which the interim order dated 25.04.2017 was passed. In the meantime, a complaint was filed by one Amrik Singh before the CM Window which was directed to be enquired into by the SDO(C), Ratia. The remand order passed by the Financial Commissioner was stayed by this Court vide interim order dated 25.4.2017. As submitted by Deputy Commissioner in his affidavit both the cases were dealt separately and the order passed in CWP-8380-2017 was not brought to his knowledge and hence, he passed the impugned order dated 03.07.2017 of removing the petitioner. The same was assailed by the petitioner by way of filing petition No.CWP-17121-2017 and operation of the impugned order dated 03.07.2017 was stayed by this Court vide order dated 24.08.2017.

Learned Deputy Commissioner filed his affidavit dated 08.02.2018 explaining the circumstances in which the order dated 03.07.2017 was passed. It has been mentioned therein that the fact regarding the stay granted by this Court vide order dated 03.07.2017 was not brought to the notice of the then Deputy Commissioner during the pendency of abovesaid complaint filed by Amrik Singh which leads to passing of the order dated 03.07.2017. Ultimately Lambardari proceedings were adjourned sine die to await the decision of the High Court. He has tendered his unconditional apology.

As the order dated 03.07.2017 passed by the then Deputy Commissioner was stayed by this Court vide order dated 24.08.2017

passed in CWP-17121-2017 so no further damage was caused. Keeping in view the abovesaid facts and the explanation furnished by the Deputy Commissioner being satisfactory, this Court does not find it appropriate to continue with the contempt proceedings against the respondents. Consequently, the contempt petition is disposed of and the rule against the respondents is discharged.

20.12.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No