
(1996) 01 P&H CK 0042
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7934 of 1987

Friends Flour Mills Private Ltd.

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 05-01-1996

Acts Referred:

Citation : (1996) 3 RCR(Civil) 592

Hon'ble Judges : G.S.Singhvi, J and S.S.Sudhalkar, J

Advocate : Sh. Mohan Jain, Advocate., Advocates for appearing Parties

Judgement

G.S. Singhvi, J.

1. These three writ petitions are interrelated. They have been filed by M/s. Friends Flour Mills Private Limited through its Managing Director/Directors in relation to the proceedings taken by the various public authorities like the Haryana State Financial Corporation, The Haryana State industries Department, the Haryana Urban Development Authority, Haryana State Electricity Board etc. and in this view of the matter we are deciding these petitions by a common order.

2. C.W.P. No. 7934 of 1987 has been filed to quash Annexure P8 dated 15.10.1987 issued by the Estate Officer, Haryana Urban Development Authority, Panchkula, to the effect that the plot/building of the petitioner stands resumed under Section 17(4) of the Haryana Urban Development Authority Act, 1977 (for short 'the 1977 Act') and an amount of Rs. 28,000/- has been forfeited to the Authority. Challenge has also been made to the order dated 8.10.1987 passed by the Haryana Financial Corporation whereby it took over the possession of the factory of the petitioner under Section 29 of State Financial Corporations Act and threatened the petitioner with the sale of the factory.

3. In C.W.P. No. 7829 of 1987 the petitioner has prayed for issue of a writ to restrain respondents Nos. 1 and 2 from arresting the petitioner and quashing of the recovery proceedings initiated by the respondents.

4. C.W.P. No. 111 of 1991 has been filed by the petitioner for quashing of the order (Annexure P1) dated 11.6.1990 for taking over possession of the factory under Section 29 of the State Financial Corporation Act, 1951 and disposal thereof. It has also been prayed that the respondent Corporation be directed to prepare the accounts after adjusting the subsidy as per one go scheme prepared by the Haryana Financial Corporation.

5. During the pendency of the writ petitions some developments have taken place, of which it is necessary to take note. Respondents the Haryana Financial Corporation and petitioner No. 1 have negotiated the matter and the Corporation agreed to settle the loan account of the petitioners and to release the documents pertaining to the factory belonging to petitioner No. 1. Accordingly petitioner No. 1 paid a sum of Rs. 4.1 lac due to the Corporation and the Financial Corporation has released the documents of the petitioners. Learned counsel appearing for the Haryana Financial Corporation has also made a statement to this effect. It is given out that the proceedings pending against the petitioner Friends Flour Mills under the various statutes have also come to an end. Learned counsel for the respondents have also invited our attention to an order dated October 30, 1992 passed in Company Petition No. 1 of 1989, (Jai Bhagwan and others v. Friends Flour Mills (P) Ltd. and 3 others), and submitted that all the parties concerning Friends Flour Mills Pvt. Ltd. have entered into a compromise in respect of the disputes. The allegations made against Shri R.S. Malik, father of Shri Vineet Malik, have been withdrawn.

6. Learned counsel for the petitioner argued that notwithstanding the fact that the loan has been repaid and the property of the petitioners has been released by the Haryana Financial Corporation and other proceedings have also been treated as concluded, this Court should record a finding of mala fides against respondent No. 3, Shri R.S. Malik, due to whose misuse of official position, the petitioners have been made to suffer during the last more than 8 years. Shri Mohan Jain, learned counsel for the petitioners, strenuously argued that in order to further the financial interests of his son, respondent Shri R.S. Malik, took advantage of his official position and pressurised the various public authorities to pass orders adversely affecting the rights and interests of the petitioner. Shri Jain submitted that the circumstantial evidence available on the record clearly points towards the mala fides of respondent Shri R.S. Malik.

7. However, after having carefully gone through the averments made in the writ petition and the affidavits of Shri R.S. Malik, we are satisfied that without recording oral as well as documentary evidence, this Court cannot hold that the actions were taken against the petitioners due to personal illwill and prejudice of Shri R.S. Malik. The nature of allegations of mala fides, levelled against Shri R.S. Malik require a thorough inquiry, which can only be made on the basis of evidence to be produced by the parties and the proceedings under Article 226 of the Constitution of India are not such in which this Court should allow the parties to adduce evidence, oral and documentary, on the allegations of mala fides.

For the reasons mentioned above, we hold that in view of the fact that the property of the petitioner has been released, the writ petitions have been rendered infructuous and are dismissed as such. If at all the petitioners want to take any action against Shri R.S. Malik for his alleged mala fides, it will be open to them to avail of other remedies, which may be available under the law.

The parties are left to bear their own costs.