

(1996) 12 P&H CK 0089

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 10244 of 1996

Naresh Kumar Aggarwal and another

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 16-12-1996

Acts Referred:

Citation : AIR 1997 P&H 303 : (1997) 1 PLJ 131 : (1997) 2 PLR 180 : (1997) 2 RCR(Civil) 412 : (1997) 1 RCR(Civil) 684 : (1997) 1 SCT 684

Hon'ble Judges : ASHOK BHAN, J and N.K.AGARWAL, J

Advocate : Jasbir Singh S. S. Saron, Addl. Advocate-General, Punjab, Advocates for appearing Parties

Judgement

1. Petitioners in their capacity as President and Secretary of District Bar Association, Jalandhar, have filed the present writ petition by way of public interest litigation as it concerns the general public, that is the litigants, Judiciary and Advocates for issuance of a writ of mandamus directing the respondents to construct the building of the New Judicial Complex having all the modern facilities like big Court rooms having air cooled/air conditioning facility, Bar Room along with spacious Library, Chambers for the Advocates, space for litigants along with canteen, parking facility and other facilities immediately without any loss of time.

2. Jalandhar is one of the premier towns of the State of Punjab where apart from a District and Sessions Judge, four Additional District and Sessions Judges and 16 other Judicial Officers are posted. There are only ten court rooms available. The other Judicial Officers are working in very small rooms measuring about 10 x 12 and 8 x 10. At present the judicial Courts are running at three different places. Court of District and Sessions Judge and three other Courts of Judicial Officers are functioning in Sessions Court premises. The Courts of four Additional District and Sessions Judges together with most of subordinate Courts constitute one agglomeration commonly known as New Courts Complex. In this complex some of the Judicial Officers are sitting in the ordinary rooms meant for staff and

the staff members are accommodated in the verandahs. The third complex is in the premises of old Courts which are at a distance of three kilometers from the premises of the new Courts. At present the subordinate Courts are being held in these premises. Some of the Judicial Officers have not been provided with the facility of retiring rooms. There are no bath rooms. There is no separate room for the lawyers to sit and wait for the turn of their cases.

3. The lawyers are facing difficulties in attending the Courts situated at different places. It is difficult even to place some chairs where the Advocates and litigant public can sit and wait for the turn of their cases. The situation is so grim, that some time it is difficult to stand in the Court rooms. The situation gets worsen during summer and rainy season. During rainy season one has to pull up his pant and put off shoes to reach the Court room.

4. Keeping in view the poor condition of the building and the difficulty faced by the lawyers, on the intervention of the High Court, State Government agreed to allocate the funds for construction of a new Court building. Foundation stone of the new Court Complex was laid by the then Chief Minister of Punjab on 27/11/1996. This function was attended by the then Chief Justice and other Honble Judges of this Court. Chief Minister of Punjab while delivering his speech at the time of function made a declaration that the government has decided to construct the Judicial Court Complex at all District and SubDivisional Headquarters in the State. It was declared that Court Complex at Jalandhar will be constructed by spending about 5.05 crores of rupees out of which one crore of rupees will be allocated in the current financial year. Chief

Minister also declared that he will give a grant of Rs. 5 lacs for setting up of a Library in the memory of Sardar Swaran Singh, Former Union Minister of India. Plans were drawn up. Some amount was sanctioned but later on the funds allocated were diverted to some other projects. Being disappointed with the indifferent attitude of the respondents and the total apathy shown by the administration for construction of Judicial Complex, petitioners as office bearers of the Bar Association have filed this writ petition seeking the relief prayed for.

5. Written statement has been filed. Fact that the Court buildings are scattered at three different places and their inadequacy to meet the requirement of the Judicial Officers, Lawyers and the litigant public is admitted. It has also been admitted that construction of Judicial Courts Complex at Jalandhar has been administratively approved by the Secretary to Government of Punjab, Department of Revenue (Estt. II. Br.) Chandigarh Memo No. 9/4/95REII(3)/1789 dated 13/11/1995. The then Chief Minister of Punjab laid the foundation stone of the Judicial Courts Complex at Jalandhar on 27/11/1996 and while delivering the speech at the time of foundation laying ceremony, it was declared by him to construct the Judicial Courts Complex with modern facilities at all District and Subdivisional Headquarters in the State. The administrative approval for Rs. 505.29 lacs was given on 13/11/1995 and the funds amounting to Rs. 38 lacs were allocated during October 1994 but the budget grant was modified to

Rs. 5 lacs during March 1995. Against the modified grant of Rs. 5 lacs received at the fag end of financial year 199495 expenditure to the tune of Rs. 5.59 lacs was booked against this work. The work was deferred during 199596 and a minus allotment amounting to Rs. 5.59 lacs was received during 199596 resulting in no expenditure up to 199596. The tenders invited vide Chief Engineer P. W. D. (B. and Rs.) memo No. 3191 dated 197 1996 were to come up for consideration in November 1996. It has been denied that the existing buildings of the Court rooms are in bad shape and are not being maintained. It has been added that Public Works Department has to restrict the scope of maintenance work to the extent of allotment of funds the funds normally allotted are much less thau the actual requirement so the maintenance work has to be restricted within the allotment; that the condition of the existing building is quite satisfactory and are being maintained in consultation with the Judicial Officers.

6. Counsel for the parties have been heard.

7. We sent for the inspection notes of the last three years recorded by the Inspecting Judges of Jalandhar Sessions Division. In the inspection note pertaining to1996, it has been recorded that :

". The Court building is in a dilapidated condition which deserves to be pull down immediately and a new building should be raised at one place under the same roof to improve the functioning of the Courts. With this, the availability of lawyers would improve as now the lawyers keep on shuttling from one place to another which results in loss of valuable time. It shall also improve the working of the administrative offices because the same would get centralised. Even in the same complex the buildings are disjointedly built resulting in wastage of land use and mushroom growth of unplanned khokhas built by the lawyers as their chambers.. ..

It was also observed that in spite of the fact that foundation stone of the Judicial Complex was laid dawn on 2711996 by the (chief Minister, Punjab, construction had not been started so far. It was directed that :

". A letter should be addressed to the government to release the requisite funds immediately for construction of the Courts Complex at Jalandhar."

The averments made in the writ petition regarding inadequacy of Court rooms, lack of facilities of Bar Room and Chambers to the lawyers and sitting place for the litigant public find corroboration from the inspection note recorded by the Inspecting Judge for the year 1996.

8. The general condition of the buildings in mast of the places where the Courts are located is in a very bad shape. The buildings are insufficient in number to accommodate the number of officers posted. Accommodation for the staff is also inadequate. At most of the places, there is no Bar Room. The Courts do not have proper ventilation and light. Except at one place there are no rooms

(Bar Room) for the lawyers to sit and wait for the turn of their cases. No place has been provided for the litigant public. At some of the places Presiding Officers of the Courts are sitting in verandahs with no retiring room and bath rooms. For going to the dias, Presiding Officers have to use the same passage which is being used by the lawyers and the litigant public to enter the Court Room.

9. Framers of the Constitution created three independent wings, that is the Legislature to enact just laws in consonance with the provisions of the Constitution of India, Executive to implement the laws framed by the Legislature in a just manner and an independent Judiciary to see that the laws framed by the Legislature are within the parameters and limitations set forth in the Constitution and that the Executive is performing its duties in accordance with law in a just and fair manner without discrimination. Judiciary has also been entrusted to decide the private disputes of the citizens. Executive has been given the financial powers. With the passage of time, it has been noticed that Executive has started showing a total indifferent attitude towards the settling up of Judicial Court complexes. A very meagre amount is being spent for constructing of Court Complexes and for providing other facilities and the maintenance of these buildings. Funds allocated are allowed to lapse and diverted for some other projects. This attitude is very much apparent in the present case. Despite a declaration made by the Chief Minister and allocation of funds, no work has been started at the spot and the funds as per the averments made in the petition were allowed to lapse.

10. It is the duty of the administration to provide spacious Court rooms so that Judicial Officers can sit and work in a proper atmosphere. Administration is also duty bound to provide adequate space for the administrative block, Bar Room, Library, Canteen, parking and for construction of the Chambers for the lawyers.

11. Punjab and Haryana High Court Bar Association filed Civil Writ Petition No. 10428 of 1995 (Punjab and Haryana High Court Bar Association v. Union of India and others) with a prayer for issuance of a direction to the respondents to construct/provide sufficient number of Court rooms and residential accommodation to the Judges of this Court as well as to the Subordinate Judges. The aforesaid writ petition was allowed by a Division Bench of this Court and taking the totality of circumstances into consideration, this Court issued the following directions :

"1) Complete the work of the construction of additional Court rooms in the High Court so that these are ready and available within one year from the date of receipt of a copy of this order;

2) The State of Punjab should proceed to provide new Court complexes immediately at Amritsar, Sangrur, Ludhiana and Patiala. The work at other places should also be undertaken without any avoidable delay;

3) The State of Haryana should provide new and suitable Court complexes at Ambala, Karnal, Rohtak, Yamuna Nagar, Panipat, Rewari Kaithal and Panchkula.

The needful should be done without any avoidable delay;

4) Residential accommodation should be provided by the Govt. to the Judges of this Court and the other judicial officers soon after their posting. In case residential accommodation is not readily available, the Govt. shall requisition houses and make them available to the judicial officers. The houses should be commensurate with the status and needs of the officers;

5) The Union Territory of Chandigarh shall start work for the installation/upgradation of the air conditioning unit forthwith. It should be completed within six months;

6) The States of Punjab and Haryana shall ensure that adequate stationery is provided to all the Courts within one month from the date of the receipt of a copy of this order."

12. It would be noticed from direction No. (2) above that this Court directed the State of Punjab to provide new Court Complexes immediately at Amritsar, Sangrur, Ludhiana and Patiala. It was also directed that work at other places should also be undertaken without any avoidable delay. In spite of the positive directions issued in the aforesaid writ petition, practically no steps have been taken by the State of Punjab to construct the Court complexes. From the averments made in the pleadings, it is clear that administrative approval for consideration of new Court Complex at Jalandhar at a cost of Rs. 505.29 lacs was given on 13/9/95. The foundation stone of the new Court Complex was laid down by the Chief Minister of the State in the presence of Chief

Justice and other Judges. Part of the funds which were allocated were allowed to lapse and till date no steps have been taken to construct the Court Complex.

13. For the reasons stated above, we accept this writ petition and direct the respondents to start the construction work of the New Judicial Complex at Jalandhar as per the approved plan within four months from the date of receipt/production of a certified copy of this order and complete the construction work within the next two years. Sufficient funds be allocated for raising the construction in the next two financial years.

14. A copy of this judgment be sent to the Chief Secretary, Punjab Finance Secretary and Secretary, Department of Law, Justice and Company Affairs, Punjab Chandigarh, forthwith.

Petition allowed.