

(2015) 05 P&H CK 0275

In the Punjab And Haryana At Chandigarh

Case No : CWP-17481 and 25780-2013 (O&M) and CWP-2785 and 14201-2014 (O&M)

Ram Karan and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 19-05-2015

Acts Referred:

Haryana Lokayukta Act, 2002 — Section 24

Citation : (2015) 05 P&H CK 0275

Hon'ble Judges : Jitendra Chauhan, J

Bench : Single Bench

Advocate : Vikram Singh, for the Appellant; Saurabh Mohunta, DAG, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Jitendra Chauhan, J.—The above noticed four writ petitions are being disposed of by this single judgment. However, for brevity, the facts are being derived from CWP No. 17481 of 2013.

2. The petitioner has sought quashing of the order dated 20.03.2013 (Annexure P-4), whereby, the respondent No. 4 had recommended to the competent authority to send action taken report pertaining to the recovery against the petitioner within three months; and letter dated 07.08.2013 issued by the Deputy Commissioner, Panipat, (Annexure P-5), whereby, the Block Development and Panchayat Officer, Madloda, had been directed to effect recovery within ten days, otherwise, FIR be lodged against the petitioner.

3. It is contended that the learned Lokayukta has no jurisdiction to pass any order when the competent authority under the Haryana Panchayati Raj Act, 1994 (hereinafter called "the Act") is seized of the matter. The learned counsel for the petitioner cites Prof. S.N. Hegde Vs. The Lokayukta and Others, (2004) ILR (Kar) 3892 : (2004) 3 KarLJ 505 : (2004) 2 KCCR 182 SN to contend that in

view of the specific provision in the form of Haryana Panchayati Raj Act, the general provisions of Haryana Lokayukta Act, 2002, cannot be invoked.

4. On the other hand, the learned State counsel contends that the Lokayukta is fully competent to pass the impugned order. He cites *Dharamvir Malik Vs. State of Haryana*, (2014) 1 PLR 222 .

5. Heard.

6. Before proceeding further, it is considered appropriate to refer to the objects and reasons of the Haryana Lokayukta Act, 2002, which came into existence consequent upon the repealing of Haryana Lokayukta Act, 1997. The statement of objects and reasons, reads thus:--

"Statement of Objects and Reasons - The necessity of this institution of Lokayukta was realised by the State of Haryana and the Haryana Lokayukta Act, 197 was passed. However, this act was found wanting to fulfil the purpose for which it was enacted. After repealing this Act, an expert Committee was constituted to examine the subject and to make suggestions for introducing a Bill to enact the law on the appointment and working of the Lokayukta.

2. The Lokayukta will enquire into allegations or grievances made against a public servant including past and present members of Council of Ministers, MLAs, Chairman/Vice chairman of Zila Parishad/Panchayat Samiti, Mayor/Senior Deputy Mayor/Deputy Mayor of the Municipal Corporation(s), President/Vice President of Municipal Council/Committee, Chairman/Vice Chairman or a Member/Director of Statutory or Non-Statutory Companies/Corporations/Apex Cooperative Institutions or Boards under the State Government, Vice Chancellor/Pro Vice-Chancellor of the Universities.

The Lokayukta shall be a person who is or has been a Judge of the Supreme Court or a Chief Justice or a judge of a High Court in India.

With a view to ensuring that the Lokayukta is able to act independently and discharge his functions without fear or favour the Bill provides that the Lokayukta shall not be removed from his office except on the grounds of proved CWP No. 15639 of 2013 6 misconduct or incapacity as per the provision of the Judges (Inquiry) Act, 1968 and after an address by the State Vidhan Sabha supported by a majority of the total membership of the House and a majority of not less than two thirds of the members present and voting."

7. Section 24 of the Haryana Lokayukta Act, 2002 provides that there is a bar in seeking any other remedy available under any other law for the time being in force besides making a complaint before the Lokayukta. Whereas, Section 53 of the Act provides for effecting recovery of the amount of loss caused by the Panch or Sarpanch, it does not put any embargo on the State to initiate criminal action in case of misappropriation of the Panchayat Funds. It is also a settled law that the criminal and civil proceedings can proceed simultaneously.

8. Moreover, a perusal of the impugned order, Annexure P-4, reveals that the respondent No. 4 has merely recommended for the registration of a criminal case against the petitioner, in case, he is found to have embezzled the funds of the Gram Panchayat. The respondent No. 2, vide impugned memo (Annexure P-5) has ordered that the recovery be effected from the petitioner within 10 days and if the recovery is not effected, only in such eventuality, an FIR be got registered against him.

9. From the above discussion, it is apparent that the competent authorities have been proceeding in the matter in accordance with law, without prejudice to any right of the petitioner who is free to avail of the legal remedies available to him.

10. In this view of the matter, this Court does not find any merit in the present petitions and the same are hereby dismissed.