

(2001) 09 P&H CK 0028
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 14569 of 2000

Ram Sahni

APPELLANT

Vs

Indian Farmers Fertilizer Co-op. Ltd.

RESPONDENT

Date of Decision : 04-09-2001

Acts Referred:

Constitution of India, 1950 — Article 12, 226, 227

Citation : (2001) 09 P&H CK 0028

Hon'ble Judges : S.S. Nijjar, J;J.S. Khehar, J

Bench : Division Bench

Advocate : Party in person, for the Appellant; P.K. Mutneja, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Nijjar, J.—The petitioner has filed the present petition under Articles 226/227 of the Constitution of India seeking the issuance of a writ in the nature of mandamus directing the respondents to release the alleged dues of the petitioner which are mentioned in the prayer clause as follows :—".....F.L.T.E. since 6.6.94 to January 1996, Fixed O.C.R. since April 1995 to January, 1996, Fixed Medicaj and Canteen Subsidy for January 1996, Ex-gratia liveries and Awards for 1995-1996 (since April 1995 of 18 January, 1996), T.A. Bills from April 1995 to October, 1995 as per Rules with compensation minimum of Rs. 7 lacs and compensation for harassment for causing immense mental agony anguish minimum of Rs. 3 lacs alongwith minimum cost of Rs. 25,000/- including the costs of all aforesaid suits which were filed by the petitioner for release these dues prior to this writ petition."

2. Earlier also, the petitioner had filed CWP No. 8014 of 1996 which had been decided by a detailed judgment dated 2.9.96. In that case the respondent had taken a preliminary objection to the effect that the writ petition is not maintainable against Indian Farmers Fertilizer Cooperative Ltd. (IFFCO) as the same is not "State" under Article 12 of the Constitution of India. After considering the relevant case law and other judgments given by this Court as

well as other High Courts, it has been held that IFFCO does not fall within the definition of "State" under Article 12 of the Constitution of India. As such it would not be amenable to writ jurisdiction of this Court. After the decision of the writ petition on 2.9.1996, the petitioner instituted Civil Suit No. 274 of 1996 on 14.5.1996 in the Court of Shri Narender Kumar Mittal, Addl. Civil Judge (Senior Division), Bhiwani. On 3.9.1997, it was held that the Civil Court at Bhiwani does not have territorial jurisdiction. It was also held that the suit is maintainable either at Delhi or at Mohindergarh (Haryana). The plaint was ordered to be returned to the plaintiff (the petitioner herein). Undeterred, the petitioner instituted Civil Suit No. 37 of 1.4.1998 again in the Court of Shri D.N. Bhardwaj, HCS, Civil Judge (Junior Division), Bhiwani. This suit was also decided on 15.9.1999 with the observation that the Court at Bhiwani has no territorial jurisdiction to try the case. So the plaint be returned to the plaintiff as per rules. The petitioner had also filed Civil Suit No. 209 of 1998 on 7.12.1998. Both the suits i.e. Civil Suit No. 37 of 1.4.1998 and the Civil Suit No. 209 of 1998 were decided by a common order. No appeal was filed against any of the decisions of the Civil Courts. Instead of filing the civil suit in the court, which would have territorial jurisdiction at Delhi or Mohindergarh, the petitioner chose to file the present writ petition.

3. Notice of motion was issued in the writ petition, No. 7.2.2001. On 31.10.2000 the petitioner appeared in person and stated that he does not possess funds to engage a counsel. Therefore, one Pankaj Miglani, Advocate was appointed to represent the petitioner from the State Legal Services Authority. Since Mr. Miglani has shifted to Haridwar, Mr. S.S. Rana, Advocate was appointed on behalf of the petitioner. Subsequently, on 3.7.2001, the petitioner appeared in person. He stated that he does not want the assistance of the counsel who has been assigned to appear on his behalf by this Court. In the earlier writ petition i.e. C.W.P. No. 8014 of 1996 the petitioner had also appeared in person.

4. In this petition, the petitioner appearing in person vehemently argued that the Division Bench judgment in CWP No. 8014 of 1996 needs reconsideration and made a prayer that the petition be referred to a larger Bench for decision.

5. We have considered the submissions made by the petitioner. He has made a reference to some judgment in the case of Navneet Kaur v. Medical College. He is unable to give particulars of that case. He is unable to give the date on which the case has been decided. He is unable to state as to whether the judgment in CWP No. 8014 of 1996 has been considered in the aforesaid case. Therefore, we do not find any merit in the request of the petitioner for referring the matter to a larger Bench. It also deserves to be noticed that the aforesaid judgment of the Division Bench dated 2.9.1996 has not been challenged by the petitioner by way of filing proceedings in the Supreme Court. Therefore, the aforesaid judgment has become final. It is binding on us. Moreover, the judgment in the aforesaid writ petition i.e. CWP No. 8014 of 1996 is inter-partes. Therefore, it is also binding on the petitioner. Consequently, none of the submissions which have

been urged by the petitioner in the present petition can now be permitted to be raised. The Civil Court in its order dated 3.9.1997 passed in Civil Suit No. 274 of 1996 had clearly indicated that the suit of the plaintiff would be maintainable, if filed, in the Courts at Delhi or at Mohindergarh. But the petitioner chose to ignore the guidance rendered by the Civil Courts. He did not even care to challenge the decision given by the Civil Courts by way of filing appeal/revision in the higher court. Instead the petitioner chose to file the present writ petition which is clearly not maintainable in view of the law laid down by this Court in CWP No. 8014 of 1996. We are of the considered opinion that the petitioner is deliberately abusing the process of the Court.

6. In view of the above, the conduct of the petitioner has to be viewed by the Court with disapproval. Very rightly, in the interest of justice and in the interest of the petitioner, the Division Bench had offered the petitioner the services of an Advocate. Callously, he spurned the offer and refused to accept the services of an Advocate. Yet we find he is unable to assist the Court in a meaningful manner.

In view of the above, this writ petition is dismissed with costs of Rs. 5,000/-.

7. Petition dismissed.