
(2016) 12 P&H CK 0096
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 17237 of 1998

Sham Sunder

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 14-12-2016

Acts Referred:

Constitution of India, 1950 — Article 226, Article 227

Citation : (2017) 1 LawHerald 122 : (2017) 3 RCRCivil 44

Hon'ble Judges : Mr. Rameshwar Singh Malik, J.

Bench : Single Bench

Advocate : Mr. Arun Bansal, Advocate, for the Petitioner; Mrs. Monica Chhiber Sharma, DAG, Punjab, for the Respondent

Final Decision : Partly Allowed

Judgement

Rameshwar Singh Malik, J. (Oral) - Feeling aggrieved against the impugned orders dated 17.3.1998 (Annexure P-4) and dated 29.9.1998 (Annexure P-7), whereby claim of the petitioner on account of his lottery ticket was declined, he approached this Court by way of present writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of Certiorari for quashing the impugned orders. Petitioner also seeks a writ in the nature of Mandamus, directing the respondents to release the prize money of the lottery ticket along with interest.

2. Notice of motion was issued and in compliance thereof, written statement was filed on behalf of the respondents. Thereafter, writ petition was admitted for regular hearing by a Division Bench of this Court, vide order dated 11.12.1998. That is how, this Court is seized of the matter.

3. Learned counsel for the petitioner places reliance on the order dated 19.12.2013 passed by a Division Bench of this Court in CWP No. 21044 of 2013 (Gurdial Singh v. State of Punjab and others), to contend that present writ petition is squarely covered by Gurdial Singh's case (supra). He submits that it

was not difficult for the respondent authorities to verify the genuineness of the lottery ticket furnished by the petitioner. However, instead of doing so, respondent authorities proceeded on a wholly arbitrary approach, while passing the impugned orders (Annexures P-4 and P-7), thereby rejecting the genuine claim of the petitioner, because of which the impugned orders are patently illegal. He prays for setting aside the impugned orders, by allowing the present writ petition, directing the respondent authorities to release the amount in favour of the petitioner along with interest.

4. Learned counsel for the State, after going through the order passed by the Division Bench in Gurdial Singh's case (supra), fairly states that although primary claim of the petitioner seems to be covered by Gurdial Singh's case (supra), yet so far as claim of the petitioner regarding interest is concerned, said claim is not justified, because the Lottery Rules, 1998 came to be framed by the State Legislature at a later point of time under Section 12 of the Lotteries (Regulations) Act, 1998 (Rules of 1998" for short), whereas the petitioner had purchased the lottery ticket on 31.10.1997. She prays for disposal of the writ petition.

5. After hearing learned counsel for the parties at considerable length, going through the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that so far as claim of petitioner for prize money of his lottery ticket is concerned, it has been found squarely covered by Gurdial Singh's case (supra). However, his additional claim on account of interest on the prize money has not been found worth acceptance, in view of the fact that Rules of 1998 came in operation at a later point of time.

6. The relevant observations made by the Division Bench of this Court in Gurdial Singh's case (supra), which can be gainfully followed in the present case, read as under:-

"We have examined the submissions of the learned counsels for the parties.

The Rules were notified on 9.11.1988. Rule 15 reads as under :-

"15. Forged or torn out tickets:- (1) A ticket which is forged, torn out, mutilated or tampered with, shall not be entertained.

(2) All prize winning ticket holder shall be paid in Indian Currency.

(3) One ticket will enable the holder thereof to claim one prize only, whichever is higher.

(4) The claim for prizes above rupees five thousand, shall be paid by the Director.

(5) In case of any doubt, the Director may get the tickets verified from the printing press or by a forensic science laboratory or any other authority."

The aforesaid Rules have been framed in pursuance to the power conferred under Section 12 of the said Act.

The object of Rule 15 is quite apparent i.e. to ensure that payment goes to only genuine ticket purchaser where the tickets can be duly verified. It is in this context that the expression used is "forged, torn out, mutilated or tampered with" for the ticket not to be entertained.

Simultaneously, under sub-clause (5) of Rule 15, the Director has been vested with the power for getting the tickets verified in case of doubt from Printing Press or by Forensic Science Laboratory or any other authority.

Thus, the procedure for verification in case of doubt exists. If these two sub-rules are read together, we are of the view that the only logical conclusion to draw is that clause (1) of Rule 15 of the said Rules comes into play where it is not possible to verify a ticket on account of being torn out or mutilated. A case of forgery is not to be paid nor is a case where the ticket is tampered with. The two expressions of "torn out" and "mutilated" thus, must be read ejusdem generis in that context specifically in view of the power vested for getting the ticket verified.

It is not case of the respondents before us that the ticket is incapable of verification or that there is any other claimant to the ticket. In fact, it is conceded that no other claim has been lodged qua this ticket and commission has also been paid to the agent who sold the ticket. If the ticket is genuine then we see no reason why merely because it is "torn out", the payment should be denied to the beneficiary, there being no dispute or any other claim arising from the same ticket.

Thus, the action in rejecting the claim of the petitioner cannot be justified and is set aside with a direction to make over the payment to the petitioner subject to the precaution of furnishing of an indemnity bond for restitution in case it is found at any later stage that there is any other genuine claimant or any other infirmity is found. The needful be done within a period of one month from today."

7. Coming to the factual aspect of the matter of the case in hand, it has gone undisputed that petitioner purchased a lottery ticket on 31.10.1997. He succeeded in a draw of lotteries. Lottery ticket purchased by the petitioner bearing No. 761883 was declared as prize winning ticket for Rs. 1 lac. The only ground on which the claim of the petitioner was turned down by the respondent authorities was that his ticket was torn out and it could not be entertained as such, in view condition No. 9 printed on backside of the ticket. However, a bare combined reading of both the impugned orders (Annexures P-4 and P-7), would make it crystal clear that none of the authorities examined the claim of the petitioner from the angle, whether the torn lottery ticket furnished by the petitioner could have been easily verified regarding its authenticity or not. Other facts being not in dispute, it was expected from the respondent authorities to proceed on a positive and constructive approach to examine and consider the claim of the petitioner from the point of view that the torn ticket furnished by him was verifiable.

8. Exactly same was the controversy which fell for consideration before a Division

Bench of this Court in Gurdial Singh's case (supra). In Gurdial Singh's case (supra) also, lottery ticket was torn and claim of the petitioner therein was turned down by the respondent authorities on identical grounds, which was not found permissible in law by the Division Bench. Since no such effort was made by the respondent authorities in the present case, the impugned orders cannot be sustained.

9. No other argument was raised.

10. Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned orders are suffering from patent illegality, being non speaking and cryptic orders, the same cannot be sustained. Accordingly, impugned orders (Annexure P-4 and P-7) are hereby set aside. However, the plea raised on behalf of the petitioner for payment of the said amount along with interest has not been found justified for the reasons recorded herein above. The writ petition deserves to be partly accepted.

11. Accordingly, a writ of Mandamus is being issued to the respondent authorities to pay an amount of Rs. 1 lac to the petitioner without any further loss of time, however, subject to his furnishing indemnity bond for restitution in case it is found that there is any other genuine claimant or any other infirmity. If the respondent authorities are of the view that no other genuine claim has been putforth during all this period, they would be at liberty to exempt the petitioner from furnishing indemnity bond. Let the needful be done within a period of one month from the date of receipt of certified copy of this order.

12. Resultantly, with the above said observations made and directions issued, present writ petition stands partly allowed, however, with no order as to costs.