
(2003) 11 P&H CK 0095
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 12395 of 2003

Viresh Sandley

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 13-11-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 136 PLR 751

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

Bench : Division Bench

Advocate : Atul Lakhanpal, for the Appellant; Palika Monga, A.A.G., for the Respondent

Final Decision : Dismissed

Judgement

S.S. Nijjar, J.—The petitioner claims to be the President of the Haryana Pradesh Unit of All India Anti-Terrorist Front (hereinafter referred to as "the front"). He is stated to be the Incharge of Jammu and Kashmir. In the capacity of the President of the front, the petitioner has been organising rallies in Haryana, Punjab and Jammu & Kashmir to apprise the people to fight against the menace of terrorism. On 26.1.2002, the petitioner had held a demonstration against the activities of Pakistan and burnt the flag of Pakistan and effigies of terrorist groups such as Laskare Toyaba, Jaise Mohammad, Al-Quaida etc. etc. This was to enlighten the people about the menace of terrorism as well as to protest against the training and arming of terrorists by Pakistan. The petitioner had started receiving threats on telephone from the fundamentalists and persons from terrorist groups. The President of the All India Anti-Terrorist Front Mr. M.S. Bitta wrote a letter to the Director General of Police, Haryana on 31.1.2001. He requested that the petitioner be provided a personal security guard to enable him safe movement in the hazardous work he is doing. Mr. Bitta also informed that All India Anti-terrorist Front is a purely voluntary and non-political organisation. It has been pointed out in the petition that the petitioner had visited the terrorist effected

families in March, 2002. Thereafter the threats to the petitioner had increased. In July, 2002, the petitioner undertook anti-terrorist "Rath Yatra" from Delhi to Srinagar. During the course of this Rath Yatra, he burnt the flag of Pakistan, effigies of terrorist organisation. Wide publicity had been given to the activities of the petitioner. In spite of high security risks, the respondents have failed to give any security-cover to the petitioner.

2. A written statement has been filed by the respondents. It has been stated that the petitioner had earlier filed Criminal Writ Petition No. 32865-M of 1998 on similar grounds. This writ petition was disposed of on 3.12.1998 with a direction to the respondents to decide the application of the petitioner, (Annexure P/1 to the aforesaid writ petition) expeditiously but not later than one month from the receipt of certified copy of the order. Consequently, the application of the petitioner was disposed of with a detailed speaking order vide office order No. 669 dated 6.1.1999. Copy of this order has been attached as Annexure R1. In this order, the Superintendent of Police, Ambala has observed that necessary enquiries have been made. The petitioner had also claimed to be a Journalist/ Press Correspondent. It was however, found on enquiry that the petitioner is not an accredited Press Correspondent of Haryana Government. It was also observed that a perusal of the visiting card of the petitioner shows that he claims himself to be an active member of many other organizations. The local police and Security branch made enquiries in all these aspects and they have recorded statements of a large number of people. The Superintendent of Police came to the conclusion that the claims made by the petitioner are not genuine. Rather, he has made himself self-style office bearers of the so-called organizations. The Superintendent of Police was further of the opinion that the petitioner seems to be running a private concern and has nothing to do with any genuine organisation. Another plea, which had been taken by the petitioner to the effect that his life was in danger because of the threats having been extended by his neighbours namely Shri Subhash Mehta, Sanjiv Kumar, Kuldeep Uppal and Kiran Kumar etc., had been found to be false. It is also noticed that a number of complaints/criminal cases are pending against both the parties. The Superintendent of Police came to the conclusion as follows:-

"4. I have gone through all the aspects of the case and have minutely perused the record of the case. In my view, it is not a fit case where security should be provided to such type of persons. He will surely misuse the same. He seems to have sought for his embellishment and not for any genuine cause. From the spot enquiry also nobody justified or evinced that security demanded by Shri Viresh Sharma s/o Ram Murti Sharma is genuine. He is asking for security only for supremacy and to overawe the people at large just to serve selfish ends. So his request is not genuine. Accordingly his application dated 3.11.98 (Ex.P1) is thus declined."

3. The respondents have attached a list of cases registered against the petitioner and their present stage, as Annexure R2 which may be reproduced for Tedy

reference:-

"1. A case FIR No. 25/91 u/s 324, 323, 34 IPC PS Ambala City. The case is under trial in the Court.

2. D.D.E. No. 10 dated 28.12.98 u/s 107, 151 IPC PS Ambala City. The case has been discharged by the SDM, Ambala with the lapse of six months.

3. D.D.E. No. 60 dated 10.11.98 u/s 182 IPC PS Ambala City. The case is under trial in the Court of C.J.M. Ambala.

4. FIR No. 28/93 u/s 392, 406 IPC PS Panjokhara. The case is under trial in the Court of Shri Deepak Gupta, ACJM, Ambala and fixed for 13.3.2003.

5. FIR No. 95/93 u/s 25, 54, 59 Arms Act PS Naraingarh. The case is under trial in the Court of Mrs. Ritu Garg, JMIC, Ambala City and fixed for 14.1,2003.

6. D.D.E. No. 10 dated 28.12.98 u/s 107, 151 IPC PS Ambala City. The case has been discharged by the SDM Ambala with the lapse of six months."

4. At this stage, Mr. Lakhanpal has very fairly pointed out that the cases mentioned at Sr. Nos. 1 to 3 are those which are either non-existent or the petitioner has been discharged from them. At present, only the cases at Sr. Nos. 4 and 5 are pending which, according to the learned counsel, are old cases of the year 1993. During the pendency of these proceedings, the respondents have attached the latest list of cases which are said to be pending against the petitioner. This list is attached with the additional written statement filed on 23.4.2003 as Annexure R8. The cases mentioned at Sr. No. 1 and 2 are the old cases of 1993. However, another cases has been registered against the petitioner vide FIR No. 27/03 under Sections 232 and 506 IPC, Police Station Ambala City. In the aforesaid case, the petitioner has been granted anticipatory bail and the matter is pending.

5. Mr. Lakhanpal has vehemently argued that due to the prevalent disturbed conditions, the efforts of individual, like the petitioner, should be louded. The petitioner is therefore, entitled to all possible help from the authorities for protection of his life and property.

6. Ms. Monga, on the other hand submits that the petitioner cannot be granted any security protection as the competent authority has come to the conclusion that there is no security threat, She has also pointed out that during the pendency of the petition, it has been learnt that the petitioner is no longer the President of the front.

7. We have considered the submissions made by learned counsel for the parties.

8. We are of the considered opinion that it is for the authorities to take an informed decision with regard to the provisions of security to any individual. The Superintendent of Police has come to a categoric opinion that the petitioner is not a kind of person, who deserves security. In fact, it has been categorically

observed that if security is granted to such type of person, he will surely misuse the same. Furthermore, it has been observed that the petitioner is seeking security for his embellishment and not for any genuine cause.

9. In view of the above, we find no merit in the writ petition.

10. Dismissed.

Sd/- S.S. Grewal, J.