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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-1268-2025Date of Decision: 06.03.2025

Joginder Singh

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Mohinder Pal, Advocate,
for the petitioner.

Mr. Raman Sharma, Addl. A.G., Haryana.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of: -

- i) order dated 06.04.2021 (Annexure P-11) whereby Disciplinary Authority imposed punishment of stoppage of three annual increments with permanent effect;
- ii) order dated 04.06.2021 (Annexure P-13) whereby Appellate Authority dismissed his appeal;
- iii. order dated 13.01.2023 (Annexure P-15) whereby Revisionary Authority dismissed his revision.

2. The petitioner is part of Haryana Police Force. He is working as Head Constable. A departmental inquiry was initiated against him alleging that on 17.12.2020 he along with 2-3 companions raided residence of Sheela Devi wife of Vinit and recovered 10 Kg ganja from her residence. The petitioner demanded a sum of ₹20 Lakhs to settle the matter. Ultimately, the matter was

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settled for ₹16 Lakhs. A sum of ₹13 Lakhs was paid on the same day and ₹3 Lakhs was to be paid on the next date. The complainant did not pay said amount and decided to expose the petitioner. He could not be exposed because he got clue and did not come to collect the remaining amount. A sum of ₹13 Lakhs was paid to the mediator namely Sunil Kumar. On the basis of inquiry report, Superintendent of Police, Hansi passed order dated 06.04.2021 whereby punishment of forfeiture of three increments with permanent effect was awarded. The operative portion of order dated 06.04.2021 is reproduced as below: -

“The undersigned again carefully observed the enquiry report of the enquiry officer, the departmental enquiry file and other evidence available in the departmental enquiry file. From the observation, it was found that when the delinquent EHC Joginder Singh No. 644/Hansi ANC Staff was posted in Hansi, he along with his 2/3 companions raided the house of Sheela Devi wife of Vinit resident of village Rohnaut district Bhiwani on 17.12.2020 and recovered 10 kg ganja from Sheela Devi's house. When Sheela Devi and her husband Vinit requested the delinquent to release the ganja and not take any police action, the delinquent demanded Rs. 20 lakh from them. The case was settled against Rs. 16 lakh in lieu of the releasing Sheela Devi and her husband Vinit by the delinquent. On which Sheela Devi and her husband Vinit gave Rs. 13 lakh in cash to the delinquent and it was decided to pay Rs. 3 lakh later on. The delinquent is resident of village Aurangnagar district Bhiwani and Sheela Devi's maternal home is also at village Aurangnagar district Bhiwani. On 18.12.2020, the delinquent sent another person to take the outstanding

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amount of Rs. 3 lakh from Sheela Devi, but Sheela Devi and her husband Vinit refused to give Rs. 3 lakh. After that, the delinquent started harassing Sheela Devi and Vinit by pressurizing them to give Rs. 3 lakh. Upon which Sheela Devi got fed up and told this to her cousin Parveen Kumar (former Sarpanch) resident of Aurangnagar. After which Praveen Kumar along with his sister Sheela Devi tried to trap the delinquent red handed by taking Rs. 3 lakh, but the delinquent got a clue and did not go to the said place to take the money. In this way, the delinquent E.H.C. Joginder Singh No. 644/Hansi, being a member of a disciplined force, has shown gross negligence and indiscipline towards his duty and has tarnished the image of the police among the general public.

As far as the punishment to be awarded to the delinquent EHC Joginder Singh No. 644/Hansi is concerned, I have seriously considered the entire matter that during the personal hearing the delinquent repeatedly apologized that he had committed a mistake. He should be forgiven, he will not commit such a mistake in future. If he be given punishment then he will not be able to support his family. Therefore, on humanitarian grounds, this departmental inquiry is settled by not giving the proposed punishment to the delinquent EHC Joginder Singh No. 644/Hansi on the basis of his above mentioned negligence, and by awarding him the punishment of permanent stoppage of his next three annual increments, and the suspended delinquent EHC Joginder Singh No. 644/Hansi is reinstated on duty with immediate effect. The Conduct Register Clerk, Office of the Superintendent of Police, Hansi will be responsible for getting the suspension period of the delinquent to decide separately in relation to this departmental enquiry.”

3. The petitioner unsuccessfully preferred appeal before Inspector

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General of Police, Hisar Range, Hisar. The Appellate Authority without adverting to contentions of the petitioner dismissed his appeal. The petitioner unsuccessfully preferred revision before the Director General of Police, Haryana.

4. Mr. Mohinder Pal submits that at the behest of a disgruntled family, the petitioner was implicated. He was placed under suspension and thereafter subjected to departmental proceedings. He was subjected to punishment of stoppage of three increments. All the Authorities despite finding that allegation of recovery of *ganja* and cash is patently false subjected him to punishment of forfeiture of 3 increments. The said order would certainly affect his career.

5. Mr. Raman Sharma, Addl. A.G., Haryana filed affidavit of Director General of Police, Haryana, which is taken on record. He submits that complaint was received in the office of Director General of Police from Sheela Devi w/o Vinit against the petitioner. Apart from said complaint, a source report dated 23.12.2020 was received in the office of Superintendent of Police, Hansi from Deputy Superintendent of Police, Hansi. On the basis of source report, the petitioner was suspended and subjected to regular departmental inquiry wherein he was found guilty of going to village Rohnat without permission/intimation to senior officers despite being on duty. On account of his misconduct of visiting village Rohnat, he was subjected to punishment of stoppage of 3 annual increments with permanent effect. The Appellate Authority finding no merit in the appeal dismissed his appeal.

6. I have heard the arguments and perused the record.

7. From the perusal of orders passed by authorities, the following facts

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emerge which need to be examined: -

- i) As per statement of complainant and source report , 10 Kg ganja was recovered. A sum of ₹13 Lakhs was paid in cash to the petitioner by the complainant. There is neither recovery of 10 Kg ganja nor of ₹13 Lakhs. The payment as well acceptance of bribe is a crime punishable under Prevention of Corruption Act, 1988 (for short 'PC Act'). Possessing 10 Kg ganja is a punishable offence under Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'). The respondent has neither registered FIR under PC Act nor NDPS Act.
- ii) The complainant and her husband before the inquiry officer categorically admitted that 10 Kg ganja was recovered from their house still no action was taken against them under NDPS Act.
- iii) There were 4-5 police officials in the alleged raiding party. There is nothing on record qua action against others.

8. From the perusal of affidavit dated 05.03.2025 of the Director General of Police, it is evident that the respondent is not inclined to take action either under NDPS Act or PC Act against the complainant and her accomplice. As per complainant and her accomplice, *ganja* was recovered from their possession and they had paid a sum of Rs.13,00,000/- to the petitioner. They before Inquiry Officer made categoric statement to the said effect. The statements tendered by complainant, her accomplice and DSP during the course of inquiry are reproduced as below:-

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**Complainant**

Prosecution Witness No. 6 Sheela W/o Vinit Kumar resident of Rohnaut District Bhiwani Mobile No. 9992004410

Stated that I am resident of the above mentioned place and do farming. I have two daughters, the elder daughter's name is Nikku and the younger daughter's name is Rohan. My husband Vinit Kumar works as a utensil vendor. The real daughter of uncle of Joginder, Geeta is married to Jitender S/o Mahabir in our family, Joginder is my uncle (Chacha) in relation. On 17.12.2020 at around 7 PM, HC Joginder and his 5 companions came in a Bolero car and entered in my house. We asked what happened, all of them were wearing masks, when Joginder removed the mask, I recognized Joginder and asked what happened uncle, then Joginder said open your bed, we have information about ganja, so when we opened our bed, 10 kg Ganja was found in it. Then Joginder said that this is a big crime in which you can be sentenced up to 10 years and bail would not be granted before 4/5 years. Then Joginder said that talk to Sunil alias Pata son of Jai Singh R/o Petwad, now residing at Uttam Nagar, Hansi. Then we talked to Sunil alias Pata and Joginder had demanded 20 lakh rupees to settle the matter and the matter was settled for 16.5 lakh, out of which 13 lakh rupees were given by Mintu to Sunil near the anti-narcotics police station near the school on Umra Road at around 12/12.30PM on the same day and Sunil gave it to Joginder. The remaining 3 lakh were decided to be given on the next day on 18.12.2020. The remaining 3 lakh were decided to be given on the next day on 18.12.2020. After that I came to my home at village Orang Nagar and I told my brother Surender, then he got assembled his uncles, then Surender called Parveen Ex-Sarpanch and

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told him the entire matter. Then we tried to catch Joginder red handed, but it got leaked and Joginder came to know about it. Joginder pressurised me for Rs. 3 lakh. I have also made a request to the higher authorities for it. I have scribed the statement, heard and it is correct.

Accomplice

Prosecution Witness No. 7 Vinit Kumar S/o Sh. Sunder resident of Rohnaut District Bhiwani Mobile No. 9992004410

Stated that I am resident of the above mentioned place and engaged in agriculture and utensil vendor works. I have two daughters. the elder's name is Nikku and the younger's name is Rohan. Geeta, the daughter of real uncle of Joginder is married to Jitender S/o Mahbari in our family. Joginder is uncle (Chacha) in relation of my wife Sheela. On 17.12.2020 at around 7 PM, HC Joginder and his 5 companions came in a Bolero car and entered in my house. We asked what happened, all of them were wearing masks, when Joginder removed the mask, my wife recognized Joginder and asked what happened uncle, then Joginder said open your bed, we have information about Ganja, so when we opened our bed, 10 kg ganja was found in that. Then Joginder said that this is a big case in which you may be sentenced up to 10 years and bail would not be granted before 4/5 years. Then Joginder told to talk to Sunil alias Pata son of Jai Singh R/o Petwad, now residing at Uttam Nagar, Hansi. Then we talked to Sunil alias Pata and Joginder had demanded 20 lakh rupees to settle the matter and the matter was settled for 16.5 lakh, out of which 13 lakh rupees were given by Mintu to Sunil near the anti-narcotics police station near the school on Umra Road at around 12/12.30PM on the same day and Sunil gave it to

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Joginder. After that my wife went to her home at village Orang Nagar and told to her brother Surender, then they got assembled their family members, then Surender called Parveen Ex-Sarpanch and told him the entire matter. After that we tried to catch Joginder red handed, but this information got leaked and came to the knowledge of Joginder. Joginder pressurised to pay Rs. 3 lakh, regarding which I have submitted applications to the higher authorities for it. I have scribed the statement, heard and it is correct.”

Deputy Superintendent of Police

“Prosecution witness no.3 Sh. Vinod Shankar H.P.S. Deputy Superintendent of Police City, Hansi.

I am posted as Deputy Superintendent of Police City Hansi in Police District Hansi. It was learned from secret sources that on 17.12.2020, EHC Joginder Singh No. 644/Hansi ANC Staff Hansi along with his 2/3 companions raided the house of Sheela Devi wife of Vinit caste Sansi resident Rohnaut district Bhiwani. During which, EHC Joginder Singh No. 644/Hansi and his companions recovered 10 kg of ganja from Sheela's house. Upon which Sheela Devi and Vinit requested EHC Joginder Singh No. 644/Hansi to leave this ganja and not to take any police action. On which EHC Joginder Singh No. 644/Hansi told them that if they give him 20 lakh rupees, then he will settle this matter there itself. Then the matter was settled between them for Rs. 16 lakh and Sheela Devi and Vinit, after arranging from here and there, gave Rs. 13 lakh to EHC Joginder Singh No. 644/Hansi at that time and it was decided to pay Rs. 3 lakh later. EHC Joginder Singh No. 644/Hansi himself is a resident of village Orangnagar in district Bhiwani and the

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maternal home of the said Sheela Devi is also in village Orangnagar district Bhiwani. Then on 18.12.2020, EHC Joginder Singh sent another person to the house of the said Sheela to take the outstanding amount of Rs. 3 lakh and Sheela Devi and Vinit refused to give the money. After that, EHC Joginder Singh started harassing Sheela Devi and Vinit repeatedly by pressurizing them to give Rs. 3 lakh. Fed up with this, Sheela Devi told it to her cousin Parveen Kumar (former Sarpanch Orangnagar) caste Sansi resident Orangnagar. Praveen Kumar took Rs. 3 lakh from his sister Sheela Devi and tried to catch EHC Joginder Singh red handed. But EHC Joginder Singh got hint of it and not gone to the mentioned place to collect the money. I had prepared a source report about it and sent it to the higher officials. I have seen it in the departmental enquiry file. It bears my signature. You have marked it as PW3/1.”

9. A number of witnesses were examined in support of version of the complainant. The complainant not only in her complaint but also during the course of departmental proceedings attempted to establish that *ganja* was recovered from her possession and she paid a sum of Rs. 13,00,000/- as bribe to the petitioner. The respondent has taken allegations of complainant very casually though were very serious. There is nothing on record disclosing source of information of DSP. The version of DSP/source report was *para materia* with statements made by complainant and her accomplice during the course of inquiry. The inquiry was in the form of *Quasi Judicial* proceeding. The complainant and her accomplice categorically stated that *ganja* was recovered and a sum of Rs.13 lakh was paid to the petitioner. If the petitioner was innocent and neither *ganja* was recovered nor cash was paid, it was unnecessary embarrassment to him on the part of disgruntled family. The

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respondent has conducted inquiry with respect to act and conduct of the petitioner whereas no inquiry was conducted with respect to act and conduct of complainant and her family who made serious allegations. Similarly, if there was actual recovery of *ganja* and bribe was accepted, it was serious offence on the part of petitioner and his team members. The respondent has saved its officer. The respondent initiated departmental proceeding though in view of admission of commission of offence punishable under NDPS Act, FIR was bound to be registered.

10. Recording of reasons in orders is equally important as giving an opportunity of hearing. The recording of reasons in order is based upon the established principle that justice should not only be done but should also appear to be done. It operates as a valid restraint on any possible arbitrary exercise of power. The reasons in order means link between material which the forum considered while reaching the conclusion and reveals a rational nexus between the two. Justice demands disclosure of reasons for the decisions where the rights of the person are infringed. The Apex Court in ***Kranti Associates Pvt. Ltd. v. Massod Ahmed Khan, (2010) 9 SCC 496*** has considered the necessity and importance of reasons in order(s) at length and held as under: -

“(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid



restraint on any possible arbitrary exercise of judicial and quasijudicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by Superior Courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the Life blood of judicial decision making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

(m) It cannot be doubted that transparency is the sine qua

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non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731- 737).

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya v. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, “adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “Due Process”.

11. In ***Maneka Gandhi v. Union of India, (1978) 1 SCC 248***, passport authority without granting opportunity of hearing impounded passport of the petitioner. A Constitution Bench while adjudicating various issues held that passport authority is required to record in writing a brief statement of reasons for impounding the passport and save in certain exceptional circumstances supply copy of such statement to the person affected so that the person concerned can challenge the decision of the passport authority in appeal and the appellate authority can examine whether the reasons given by passport authority are correct.

12. In the case in hand, the Appellate Authority has passed impugned

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order mechanically. The Appellate Authority, as per Rule 16.31 of Punjab Police Rules, 1934, was duty bound to pass a speaking and reasoned order. The Appellate Authority has failed to discharge his duty in true spirit. The order passed by Appellate Authority, for the ready reference, is reproduced as below:-

“4. I have carefully examined the appeal dated 03.05.2021 preferred by the appellant, departmental enquiry file and other relevant records. The appellant was also heard through Video Conferencing on 03.06.2021, by the undersigned.

5. From the perusal of relevant records and departmental enquiry file, it is revealed that departmental enquiry has been conducted as per laid down procedures and there is no lacuna in the proceedings. The given punishment is commensurate with the misconduct committed by the appellant and hence, does not require any interference from this office. Appeal is rejected being devoid of any merit.”

13. From the perusal of afore-cited order, it is evident that Appellate Authority has acted mechanically and there was no attempt to examine version of the petitioner and record findings. In view of judgment of Supreme Court in **Kranti Associates (Supra)**, the Authority was bound to record findings. Similar mistake has been repeated by DGP. The relevant extracts of order dated 13.01.2023 passed by DGP are reproduced as below:-

“.....I have carefully examined the revision petition, departmental enquiry file and order(s) passed by both the authorities below. The departmental enquiry proceedings have been conducted in accordance with laid down procedure in which the revisionist has been held guilty of charges leveled against him. Charges against the revisionist are serious nature and the same have been fully



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proved during the course of departmental enquiry for which the Punishing Authority has inflicted punishment upon him. Hence, no ground is made out to interfere with the orders passed by authorities below. Revision petition submitted by the revisionist is rejected. Ordered accordingly.”

14. As the authorities have miserably failed to act as *Quasi Judicial* Authorities, the impugned orders deserve to be set aside and accordingly set aside. The matter is remanded back to Appellate Authority to reconsider appeal of the petitioner.

15. As the respondent by way of affidavit has expressed its inability to proceed with respect to recovery of *ganja* and payment of Rs.13,00,000/-, this Court finds it appropriate to refer the matter to Additional Director, Narcotics Control Bureau, Chandigarh Zonal Unit, Chandigarh to examine the question of recovery of 10 kg *ganja* as well as payment of Rs.13,00,000/-. Registry is directed to send copy of this order alongwith complete paper book to Additional Director, Narcotics Control Bureau, Chandigarh Zonal Unit, Chandigarh.

16. Allowed.

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shivani

Whether reasoned/speaking

Whether reportable

Yes

Yes

(JAGMOHAN BANSAL)

JUDGE