

Mitter Sain Goyal @ Mitter Sain Meet Versus State of Punjab and others.

**In the court of Sh. Hasandeep Singh Bajwa, PCS,
Civil Judge, Junior Division Ludhiana UID Code PB0387**

Cs/3585/2021

Date of Order:-19.07.2021

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Versus

State of Punjab and others.

Application under order 39 rule 1 and 2 of CPC

Present:- Sh. Harish Rai Dhanda Adv, counsel for plaintiffs.

ORDER

Arguments of ld. Counsel for plaintiffs have been heard and file has been carefully perused. This suit has been filed by present plaintiffs against State of Punjab, Director Language Department and District Language Officer, Punjabi Bhawan, Ludhiana. This suit is filed for declaration that formation of State Advisory Board under the notification dated 15.11.2002 by defendants no. 1 and 2 on 02.06.2020, is not in confirmation with the said notification. Declaration has also been sought that Shiromani Sahitkar Awards etc. being given by Punjab Government through its Language Department is being given by way of favoritism, nepotism without following or creating any

foolproof procedure for arriving at a conclusive conclusion to select a particular individual for the award. Ultimately, Permanent Injunction has also been sought for restraining the defendants from issuing awards alongwith cash incentive attached to it in the name of so-called selected awardees or from conferring the awards to the selected candidates.

2. After carefully going through the case file, first question which arises is that whether plaintiffs have got locus-standi and cause of action to file this suit or not as by way of this suit, plaintiffs are challenging conferring of said award on some persons. Perusal of file shows that plaintiff no. 1 is engaged in writing literary work by way of short stories since 1968. Name of plaintiff no. 1 was considered for conferring the award, though he himself never applied for the said award but ultimately his name was rejected. Once name of plaintiff no. 1 is considered and rejected by the selection committee, he has got every right to file this suit if these awards are not being conferred by following due procedure and are allegedly given to the persons on the basis of favoritism and nepotism. Even otherwise from perusal of plaint and accompanied affidavit, it becomes clear that plaintiff no. 1 is

well known across the entire literary Punjabi Community for his works. Plaintiff no. 1 has received Sahit Academy Award, one of the highest national award for his work “Sudhar Ghar” in the year 2008. Even his works are also taught in Haryana Police Academy, Madhuban as well as in National Police Academy, Hyderabad. These facts make it crystal clear that plaintiff no. 1 has given his entire life for works relating to Punjabi Language. These Shiromani Awards are given for doing excellent work in Punjabi language and also in several other categories. In such a scenario, having worked in punjabi language for so many years, plaintiff no. 1 has got every right to challenge conferring of these awards if they are not being given to suitable persons and are given as a result of favoritism. Accordingly, it is held that plaintiffs have got locus-standi and cause of action to file this suit. Defendant no. 3 has its office at Ludhiana and also these awards are conferred on several persons throughout Punjab, so at this stage it appears that this court has jurisdiction to try this suit. Now this court will proceed to discuss this case on merits and find out that whether stay deserves to be granted in this case or not.

3. Shiromani Sahitkar Awards and other awards being

conferred by the language department are very prestigious awards and are given for excellent literary works done by the persons in several categories. In such a scenario, selection criteria for these awards is required to be very strict and fair. Any person can only be selected for giving these awards after carefully analyzing his work and skills. Some awards are concerned with works of literature, so such works are required to be checked thoroughly to find out that whether these works are of good quality or not and also to find out that whether the grammar used in the works is correct or not. Documents placed on record shows that no proper criteria is being followed in conferring of these awards for the reasons best known to the committee members. In this regard, one letter written by Professor Chaman Lal, member of State Advisory Board dated 17.03.2021 addressed to Chairman of Higher Education and Language Department is on the record. Professor Chaman Lal has clearly mentioned that how people are selected for these awards in arbitrary and unfair manner. It is mentioned that agenda of the meeting is sent a week before the meeting however supplementary agenda is sent only a day before the meeting, which includes few such names which are immediately short listed by

screening committee and most of them are being given awards. He stated in this detailed letter that lack of transparency affects the credibility of the awards itself. It is even mentioned that members of Advisory Board impose their choices on the board because of which proper justice is not done with the deserving candidates. Various other points have also been raised in this letter by the member of State Advisory Board. All these points are also raised by plaintiff in the plaint. In such a scenario, when one of the member of State Advisory Board himself is saying that awards are given in arbitrary and unfair manner, credibility is clearly given to the case set up by the plaintiffs.

4. Base of giving these awards is one Viyakhya Pattar which has been produced on record by the present plaintiffs. It is mentioned that plaintiffs sought information through RTI about the procedure for selection and they were provided this Viyakhya Pattar. The answer given to RTI queries by the language department is on the record. Perusal of these answers show that language department is itself not aware of the fact that how this Viyakhya Pattar has been prepared, who has prepared it and under whose authority it has been prepared. Perusal of Viyakhya Pattar shows that it is an undated and unsigned

document. In such a scenario, when it is not even clear that how when and by whom this Viyakhya Pattar has been prepared, how can awards be given making it a base. Shiromani Sahitkar Awards are also given in the country. Sahitkar Award rules have been brought on record by plaintiffs. Perusal of these rules show that they were enacted on 11.03.2014 and then prepared under the signatures of Secretary Sahitkar Award. In contrast, it is not even clear that who has prepared this Viyakhya Pattar and when it was prepared. This point clearly deserves consideration of this court.

5. This is not the first time that these awards are being challenged. Earlier also a writ petition was filed before Hon'ble Punjab & Haryana High Court challenging these awards in the year 2008 as seven members of the board took the award themselves. Thereafter affidavit was filed in the matter by Secretary Higher Education in which it was mentioned that in future State Advisory Board and Screening Committee will be composed of such persons who have no conflict of interest between their own interest and their duty in selection of awardees. It was mentioned that if a member either of State Advisory Board or Screening Committee is also a nominee of the

award, he will have to resign from membership of committee if his name is to be considered further. Thereafter, meeting of sub-committee was held on 08.09.2009 and it was recommended that if any member of the board wishes that his name may be considered for award, then he should resign from the board and he would not be considered for award for the current period but his name can be considered for the future awards. Further, it was also held that procedure formulated and incorporated in report dated 08.09.2009 will also be applicable to relative/blood relations of board members. It is mentioned on record in the plaint accompanied with duly sworn affidavit that one Dr. Jaswinder Singh member of Advisory Board resigned on 23.11.2020 on personal grounds and his wife Dr. Dhanwant Kaur was put into a penal of body by screening committee and she was ultimately selected for the award. One other official Dr. Tejwant Singh Maan wrote a letter dated 27.11.2020 to the department that since his name is being considered for the highest award i.e. Punjabi Sahit Rattan Puraskar, so he will not attend the meeting and instead his Secretary will attend the meeting. Ultimately, he got award and cash price of Rs. 10 lakhs by skipping the meeting of Advisory Board on 29.10.2011. It is very clear

that both of them could not have been considered for award in view of affidavit filed before High Court and also as per the rules of Sub-committee. Suprisingly neither affidavit filed before Hon'ble High Court was honoured nor rules of sub-committee were considered and these awards were conferred. In such a situation, this court has no other option but to step in and make sure that these awards are given in a proper manner by following due procedure to the deserving candidates.

6. In case titled as **“Parkash Singh Versus State of Haryana 2002(4) Civil L.J 71 (P&H)**, Hon'ble High Court had held that prima-facie case does not mean that plaintiff should have cent percent case which will always properly succeed in trial. Prima-face case means that the contention which the plaintiff is raising require consideration in merit and are not liable to be rejected summarily. In instant case as already discussed contentions raised by plaintiff require through consideration, so clearly a prima-facie case is made out in favour of present plaintiffs. Even balance of convenience is also in favour of present plaintiffs because if injunction is withheld and the awards are given alongwith cash prices, then this suit will become infructuous but on the other hand if injunction is granted and giving of awards is

stayed for the time being, then not much injury is going to be caused to the defendants especially when these awards have been announced in the month of December 2020 and they have not been given till date. Further, if these awards are given and cash money is disbursed then an irreparable loss will also be caused to the present plaintiffs which cannot be compensated with any cost. Accordingly, defendants are hereby restrained from issuing these awards alongwith cash incentive attached to it in the name of selected awardees or from conferring awards to the selected candidates till next date of hearing i.e. 02.08.2021. It is made clear that if it comes to the notice of this court that plaintiffs have concealed any material fact or they have stated any false fact before the court, then this court will vacate the stay immediately. It is further made clear that if service of defendants is not effected by 02.08.2021, then this stay order shall stand vacated automatically. Compliance under order 39 rule 3 CPC be made immediately. Let notice of suit and stay application be issued to defendants through ordinary process as well as registered post for 02.08.2021, on filing of RC with AD, copies of plaint and one time

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process fee.

Pronounced on:-
19.07.2021

(Hasandeep Singh Bajwa)
Civil Judge, Junior Division
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UID Code PB0387

Typed by Pankaj Virdi Stenographer-II