

CWP No. 19086 of 2017

Ravinder Singh Dhull Versus State of Haryana and others

Present: Mr. Ravinder Singh Dhull, Advocate
petitioner in person.

The petition has been filed for directing the respondents to make adequate security specially in District Panchkula and surrounding areas where the Court of Learned Addl. District Judge for CBI is to pronounce judgment in a criminal trial on 25.8.2017.

The Union of India through Home Secretary is impleaded as respondent No.5. The Central Bureau of Investigation through Deputy Inspector General of Police, Sector-30, Chandigarh is impleaded as respondent No.6 and Dera Sacha Sauda, Sirsa, is impleaded as respondent No.7. Registry to make necessary corrections in the memo of parties.

We called for Mr. Satya Pal Jain, Senior Advocate/Additional Solicitor General, Government of India and also Mr. Baldev Raj Mahajan, Advocate General Haryana. On the asking of Court both the learned Senior Advocates have appeared with Mr. Dheeraj Jain, Advocate and Mr. Pawan Girdhar, Additional Advocate General, Haryana. We have requested them to intervene in the matter forthwith. Mr. P.P.S. Thethi, Additional Advocate General, Punjab, is present. He is also requested to assist the Court.

The Central Government shall provide adequate security and force to the State Government for maintaining peace and law and order in Panchkula and its surrounding areas forthwith.

The Union of India through the Home Secretary shall provide force including paramilitary force keeping in view the gravity of the situation. The Union of India shall make its own assessment in this regard. The State of Haryana shall also provide its own assessment and requirement

as may be required from time to time. The force shall be provided forthwith.

Mr. Sumeet Goel, Advocate, Standing counsel for CBI (respondent No.6) is present in Court. He has submitted that the witnesses in the case, the Investigating Officer of the CBI and the Public Prosecutor in the trial of the case as also in the High Court also face threats. It is submitted that some protection though has been granted but more would be required. Mr. B.R. Mahajan, Advocate General Haryana, shall forthwith make necessary arrangements for providing protection to the witnesses in the case, the Public Prosecutor in the trial of the case as also the Public Prosecutor in the High Court.

Mr. S.K. Garg Narwana, Sr. Advocate, with Mr. Virat Amarnath, Advocate, is present in Court. On request of the Court he has put in appearance for Dera Sacha Sauda, Sirsa, (respondent No.7). The Court expects full cooperation from respondent No.7 as well in the matter. He shall submit in the post lunch session as to what steps are being taken to diffuse the situation.

List for hearing in the post lunch session.

Copy of the order be given to Mr. Dheeraj Jain, Advocate, Mr. Virat Amarnath, Advocate and Mr. Pawan Girdhar, Additional Advocate General, Haryana, under the signatures of the Court Secretary.

**(S.S. SARON)
ACTING CHIEF JUSTICE**

**(AVNEESH JHINGAN)
JUDGE**

**24.08.2017
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Ravinder Singh Dhull v. State of Haryana and others

Present: Mr. Ravinder Singh Dhull, Advocate
petitioner in person.

Mr. Baldev Raj Mahajan, Advocate General, Haryana with
Mr. Pawan Girdhar, Addl. AG, Haryana and
Mr. S.S. Pannu, DAG, Haryana.

Mr. Atul Nanda, Advocate General, Punjab with
Mr. P.P.S. Thethi, Addl. AG, Punjab and
Mr. Luvinder Sofat, AAG, Punjab.

Mr. Satya Pal Jain, Senior Advocate/Additional Solicitor
General, Government of India with
Mr. Dheeraj Jain, Advocate for UOI (respondent No.5).

Mr. Sumeet Goel, Standing Counsel for
Central Bureau of Investigation (respondent No.6).

Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Virat Amarnath, Advocate for
Dera Sacha Sauda, Sirsa (respondent No.7).

Mr. Satya Pal Jain, Senior Advocate/Additional Solicitor
General, Government of India submits that in consequence of the
order passed in the pre-lunch session, he has spoken to the
Home Secretary, Government of India and apprised him of the
order passed by this Court. It is submitted that he is waiting for
response in this regard from him. Consequently, case to be
taken up after one hour.

Union Territory, Chandigarh Administration through its
Administrator is impleaded as respondent No.8.

Mr. Randeep Rai, Senior Advocate/Senior Standing
Counsel with Mr. Gautam Dutt, Advocate for U.T. Administration,

Chandigarh, who is present in Court, accepts notice. He shall also assist this Court.

Registry to carry out necessary corrections.

The case be placed before a Full Bench to be constituted today itself.

(S. S. Saron)
Acting Chief Justice

(Avneesh Jhingan)
Judge

24.08.2017
A.Kaundal

Ravinder Singh Dhull v. State of Haryana and others

Present: Mr. Ravinder Singh Dhull, Advocate
petitioner in person.

Mr. Satya Pal Jain, Senior Advocate/Additional Solicitor
General, Government of India with
Mr. Dheeraj Jain, Advocate for UOI (respondent No.5).

Mr. Baldev Raj Mahajan, Advocate General, Haryana with
Mr. Pawan Girdhar, Addl. AG, Haryana and
Mr. S.S. Pannu, DAG, Haryana.

Mr. Atul Nanda, Advocate General, Punjab with
Mr. P.P.S. Thethi, Addl. AG, Punjab and
Mr. Luvinder Sofat, AAG, Punjab.

Mr. Sumeet Goel, Standing Counsel for
Central Bureau of Investigation (respondent No.6).

Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Virat Amarnath, Advocate for
Dera Sacha Sauda, Sirsa (respondent No.7).

Mr. Randeep Singh Rai, Senior Advocate with
Mr. D.S. Brar, Additional Public Prosecutor
for U.T. Chandigarh (respondent No.8).

Deliberations have been carried out to ensure that peace
and law and order are maintained in Panchkula and its
surrounding areas in view of the pronouncement of the judgment
in criminal case tomorrow i.e. 25.08.2017.

Mr. Satya Pal Jain, Senior Advocate/Additional Solicitor
General, Government of India was requested to forthwith make
arrangements for additional force in view of the extra ordinary
and grave situation.

Mr. Satya Pal Jain, Senior Advocate/Additional Solicitor
General, Government of India has submitted that as against the
requisitioned number of Central Armed Police Force Companies,

only part of them have been provided. On the strength of the letter received from the Government of India, it is stated that police and public order are State subject and State Governments are primarily responsible for maintenance of law and order.

It is to be noticed that in extra ordinary and grave situations, as in the present case, the Union Government is not to abdicate or avoid its responsibility. It is duty bound to give necessary forces and help the State Governments so as to maintain peace and law and order by giving necessary force wherever it is required.

In the circumstances, the Central Government is directed to provide additional forces during the intervening night today itself and before dawn tomorrow.

It is also informed that the Haryana Government has requested the Central Government for the Army to standby. Mr. Satya Pal Jain, Senior Advocate/Additional Solicitor General, Government of India submits that the concerned authorities of the Defence Ministry have been informed that the Army is at standby and can be requisitioned by the State Government at any time.

In case, a request is made by the Punjab Government and the Chandigarh Administration for requisition of the Army, the same shall also be provided by the Union Government.

The State of Haryana has been somewhat lackluster in controlling the crowd that has been gathering in Panchkula.

The petitioner appearing in person has submitted that persons have been gathering in groups and are disturbing the even tempo of life; besides, holding out threats.

The State Government was asked to produce the order that had been passed under Section 144 of the Code of Criminal Procedure. Two orders dated 18.08.2017 and 22.08.2017 have been produced, which are reproduced as under:-

“Order Under Section 144 of the Code of Criminal Procedure, 1973.

Whereas it has been made to appear to me that there is likelihood of causing tension, annoyance, obstruction or injury to persons, danger to human life and property, disturbance of public peace and tranquility in police Commissionerate Panchkula on account of appearing of Sant Gurmit Ram Rahim Singh in CBI Court in Court Complex, Sector-1, Panchkula on 25.08.2017.

Whereas it has been made to appear to me that carrying of any weapon of offence like Fire-Arms, Swords (included sheathed Lathies or any other thing which is capable of being used as a weapon of offence) which is likely to cause obstructions in the maintenance of public order and tranquility possibly resulting in riot or affray

in any public place within the limits of police Commissionerate Panchkula.

Whereas I am satisfied that directions are necessary to avoid annoyance and injury to persons lawfully employed or risk or danger to human life and property, disturbance of public peace and tranquility or riot to affray.

Now, therefore, in exercise of the powers conferred upon me by virtue of Section 144 of the Code of Criminal Procedure, 1973, read with Haryana Government & Home Department notification No.S.O.68/H.A. 2008/25/S.8,9,10 and 83/2011. I Ashok Kumar IPS, Deputy Commissioner of Police, Panchkula do hereby prohibit as a measure of emergency, the carrying of any lethal weapons of offence like all licensed Fire-Arms, Swords (Except Sheathered Kirpans used as genuine religious symbols by Sikhs), Lathies, Burchhas, Kulharis etc. and others weapons of offence by the public in Police District Panchkula with immediate effect till 27.08.2017.

This order shall not apply on the police and other public servants on duty and on the private security guards deployed at banks,

jewellery shops and other commercial establishments, provided that these guards will carry arms openly only in front of or within the premises of their bank, jewellery shop or commercial establishment. Moreover, the private security guards can only transport / carry the weapon from their place of residence to the bank/jewellery shop/commercial establishments only and no where else. Moreover, during this transportation, the weapon should be covered completely by an opaque box, cloth or bag.

This order shall be promulgated by announcement through the publicity van of the District Information and Public Relations Officer and by affixing copies of the order on notice boards of the District Courts, offices of ACPs, Police Stations, Security Branch, Municipal Corporation, Panchayats, Tehsil, BDPOs, Polling Stations and in Bus Stands in the Police Commissionerate Panchkula by the District Information and Public Relations Officer.

In view of the emergent situation and shortage of time, this order is being passed ex parte and addressed to the public in general.

Any person found guilty for violation of aforesaid order, shall be liable for punishment under Section 188 of the Indian Penal Code.

Given under my hand and the seal on this 18th Aug. 2017."

Deputy Commissioner of Police,
Panchkula."

**"ORDER UNDER SECTION 144 OF THE CODE OF
CRIMINAL PROCEDURE, 1973**

Whereas it has been made to appear to me that there is likelihood of causing tension, annoyance, obstruction or injury to persons, danger to human life and property, disturbance of public peace and tranquility in police district Panchkula on hearing of Baba Ram Rahim, Chief Dera Sacha Sauda, Sirsa in Hon'ble CBI Court at Panchkula on 25-08-2017.

Whereas I am satisfied that directions are necessary to avoid annoyance and injury to persons lawfully employed or risk or danger to human life and property, disturbance of public peace and tranquility or riot to affray the area of Police Commissionerate Panchkula some legal steps are needed to be taken.

Now, therefore, in exercise of the powers conferred upon me by virtue of Section

144 of the Code of Criminal Procedure, 1973, read with Haryana Government and Home Department notification No.S.O. 68/H.A. 2008/25/S.8, 9, 10 and 83/2011 I, Ashok Kumar, IPS, Deputy Commissioner of Police, Panchkula do hereby prohibit as a measure of emergency, carrying of any weapon of offence like Swords (Except Sheathered Kirpans used as genuine religious symbols by Sikhs), Lathies, Dandas, Iron Rods, Burchhas, Kulharis, Umbrellas etc. and other weapons of offence or any other thing which is capable of being used as a weapon of offence by the public in the entire district Panchkula on 22-08-2017 to 27-08-2017.

And whereas it has been made to appear to me that the gathering of an assembly of five or more persons, carrying of any weapon of offence like Arms, Swords (except Sheathered Kirpans used as genuine religious symbols by Sikhs), Lathes, Burchhas, Kulharis, Jellies, Gandasies, Knives, Umbrellas etc. and other weapons of offence or any other thing which is capable of being used as a weapon of offence is likely to cause tension, annoyance,

obstruction or injury to persons or risk or danger to human life and property, disturbance of public peace and tranquility or riot affray in the entire district Panchkula on 22-08-2017 to 27-08-2017.

This order shall not apply on the police and other public servants.

This order shall be promulgated by announcement through the publicity van of the District Information and Public Relations Officer and by affixing copies of the order on notice boards of the District Courts, offices of ACPs, Police Stations, Security Branch, Municipal Corporation, Panchayats, Tehsils, BDPOs and in Bus Stands in the district Panchkula by the District Information and Public Relations Officer.

In view of the emergent situation and shortage of time, this order is being passed ex-parte and addressed to the public in general.

Any person found guilty for violation of aforesaid order, shall be liable for punishment under Section 188 of the Indian Penal Code.

Given under my hand and the seal on this 22, August, 2017.

Deputy Commissioner of Police,
Panchkula."

A perusal of the above orders clearly show that there is no prohibition whatsoever of the assembly of five or more persons at any point of time.

Mr. B. R. Mahajan, learned Advocate General, Haryana, however, submits that there is a clerical mistake in the order dated 22.08.2017 regarding prohibition of assembly of five or more persons in the area of Panchkula and that an amended order had been passed today i.e. 24.08.2017. It is to be noticed that by the time the amended order has been passed, the damage had already been done inasmuch as number of people have gathered and probably with a view to raise protests. Though Mr. S.K. Garg Narwana, Senior Advocate appearing for respondent No.7-Dera Sacha Sauda submits that they have gathered peacefully and they would maintain peace at all costs. He has assured that appeals have already been made to the persons who have gathered at Panchkula to return to their homes and that fresh appeals would be made to return to their homes immediately; besides, maintain peace throughout the State of Punjab, Haryana and UT Chandigarh.

Learned Advocate General, Haryana on instructions from Shri A.S. Chawla, Commissioner of Police, Panchkula has submitted that certain messages have been intercepted, which show that instructions are being given by the followers of respondent No.7-Dera Sacha Sauda to reach Panchkula.

Let the messages be produced in Court on the adjourned

date.

The State Governments shall ensure that peace and law and order is strictly maintained and those who are found to be violating the law are dealt with sternly. These directions shall not only be applicable in case of Panchkula, but also in other parts of the States of Haryana, Punjab and UT Chandigarh and more particularly also in Sirsa District of the State of Haryana. The State of Haryana and the District Police Administration shall act firmly to ensure that the persons who have gathered at Panchkula would return. Besides, prevent and ensure that the crowd does not further swell.

The State Governments and U.T. Administration shall ensure that Magistrates and/or Police Officers with Magisterial powers are present and readily available for passing orders whenever required.

Copy of the order be given under the signatures of the Court Secretary of this Bench to Shri Dheeraj Jain, Advocate; Shri Pawan Girdhar, Addl. AG, Haryana; Shri P.P.S. Thethi, Addl. AG, Punjab; Shri D. S. Brar, Additional Public Prosecutor, U.T. Chandigarh; Shri Sumeet Goel, Advocate and Shri Virat Amarnath, Advocate.

List for hearing on 25.08.2017.

(S. S. Saron)
Acting Chief Justice

(Surya Kant)
Judge

(Avneesh Jhingan)
Judge

24.08.2017
A.Kaundal