

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Neutral Citation No.2023:PHHC:122143-DB

CWP-20359-2013 (O&M)

CWP-23426-2014, CWP-3 & 29699-2017

Reserved on: 10.08.2023

Pronounced on : 15.09.2023

Court on Its own Motion

.....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present:- Mr.Raj Kumar Gupta, Amicus Curiae in CWP-20359-2013.

Mr. Gaurav Mohunta, Amicus Curiae in CWP-3-2017.

Mr. R.S. Cheema, Senior Advocate with
Mr.A.S.Cheema, Mr.Siddharth Bhukkal, Advocates
for the intervener (in CM-5610-CWP-2023).

Mr.R.S.Rai, Sr.Advocate
with Mr. P.S. Ahluwalia &Mr.Vipul Joshi, Advocates
for the applicant-Dinkar Gupta (in CM-7809-CWP-2023).

Mr. R. Kartikeya, Advocate
Ms.Sidhu Bansal, Ms.Ridhi Bansal, Ms.R.Akanksha, Advocates
for Mr. Siddharth Chattopadhyaya.

Mr.Anandeshwar Gautam, Advocate, for Mr.Shashi Kant (IPS).

Mr. Satya Pal Jain, Additional Solicitor General of India with
Mr. Arun Gosain, Senior Government Counsel
for UOI, ED, NCB and BSF.

Mr. Navkiran Singh, Advocate
and Ms. Harpreet Kaur, Advocate for the applicant/intervener
(in CM Nos.266, 3365-CWP of 2022).

Ms. Aman Rani &Mr.Pritpal Singh Swaich, Advocates for the
applicant
(in CM-5057-CWP-2023 in CWP-20359-2013).

Mr. Gaurav Garg Dhuriwala, Addl.AG, Punjab.

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Mr. Arun Beniwal, DAG, Haryana.

Mr.A.M.Punchhi, Public Prosecutor, U.T. Chandigarh and
Mr. Rajiv Vij, Addl. Public Prosecutor, for U.T. Chandigarh.

Mr. Rajeev Anand, Advocate
for respondent No.9-CBI (in CWP No.20359 of 2013).

G.S. Sandhawalia, J.

The present writ petition was initiated on a letter received from Shri Shashi Kant, Retired IPS Officer highlighting the drug menace in the State of Punjab. Suggestion was made to implead Border Security Force (BSF), Narcotics Control Bureau (NCB), Ministry of Home Affairs and Enforcement Directorate alongwith the State of Punjab and its various departments including Home Department, Police Department, Health Department, Sports Department and Social Welfare Department.

2. Status reports were called for and even Central Bureau of Investigation was impleaded as respondent No.9. The Directorate of Enforcement was also impleaded. Keeping in view the various reports received, the Bench headed by the then Chief Justice had kept in mind the disease of narco-terrorism in its larger perspective and ensure that there is improved coordination between the Central Government and the State Government and various agencies to tackle this menace and the capabilities of Narcotics Control Bureau unit at Chandigarh has to be enhanced.

3. Various status reports have been filed and the Court was apprised that the investigation was not proceeding properly as certain important names were coming into light. It was noticed that though the then Deputy Director, Niranjana Singh, Enforcement Directorate was

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leading the investigation and at one point of time his transfer was also stayed on 21.01.2015. Various status reports were filed and perused and sealed, which would be clear from the order dated 27.04.2015, 30.04.2015, 06.05.2015 and 24.08.2015.

4. Vide order dated 23.09.2015, it was noticed that there are 12 accused and 11 red corner notices were issued to them. The CBI was directed to explain the steps taken for the extradition of the persons referred and to expedite the process and file the status report. The fact was noticed that the Punjab Police should continue with its efforts to nab the suspects since after registration of the FIRs in the year 2013-2014, the identification of the drug kingpins within or outside the State of Punjab was not being done.

5. On 02.12.2015, it was noticed that vide order dated 08.10.2015 passed in CWP No.88 of 2014 the SIT comprising three senior officers of Punjab Police was constituted, which had to scrutinize the cases wherever extradition request was being made and directions were issued for taking necessary action and there were periodical meetings held between the CBI and the SIT of the Punjab Police. The fact that unauthorized illegal medical shops had been opened/set up in Patti Town and directions were issued to the District Drug Controller, Tarn-Taran to hold inquiry and verify whether any licenses have been issued and whether they were granted in accordance to the rules prescribed or illegal establishments were being functioned. Directions were also issued to constitute an expert team comprising a Senior Professor of the PGIMER/Medical Colleges and State Drug Controller etc. to recommend the revised module of curriculum for schools and colleges on the drug menace. Identification of NGOs was directed and constitution of District

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Level Committees was also directed, apart from the fact that people undergoing treatments in De-addiction Centre were to be treated as the best source to identify the source of drug trafficking/supply chain at local levels.

6. Thus, the investigation was carried on for several years and even directions were issued that the initial security which is to provide to the person or to Sh. Shashi Kant as he was apprehending threat to his life and liberty. An effort was made vide order dated 07.09.2016 regarding draft curriculum on the Proposed Syllabus of a Module on Drug Abuse: Problem, Management & Prevention, which was to be introduced at the college level. On 27.03.2017, a report was also received in sealed cover regarding identification of sources of manufacturing and supply of the illicit drugs for which information has been extracted from the De-addiction Centres in the State of Haryana. For the State of Punjab, the report given in a sealed cover was opened and sealed regarding the information gathered from the ex-addicts about manufacturing and supply of illicit drugs and directions were accordingly issued that Nodal Officer be appointed to coordinate between the different government departments and agencies, so that comprehensive status reports are submitted in the future.

7. The Punjab State constituted a Special Task Force (STF) headed by the Addl.DGP under the direct control and supervision of the Chief Minister of Punjab. The objectives of the STF was regarding criminal prosecution of all those indulging in drug peddling, supplies and distribution, rehabilitation with compassion and sympathy for those who became habitual of drug intake/consumption and mass awareness programmes. The STF was to submit fortnightly progress report to the

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Chief Minister through the Addl.DGP and the review of the progress was to be seen on regular periodic intervals and the said STF was to interact with the District Police officials. The functions thus were also to develop strategies, measures and methods to enforce the law against drug-trafficking, prevent drug abuse, rehabilitate the drug victims and co-ordinate with other governmental agencies and police units. Recommendations in the form of disciplinary action and criminal action against the police, health and officials of other departments who were involved in illegal activities relating to drug trafficking were also subject matter of its jurisdiction. The salient features of the constitution of the STF done on 14.04.2017 by the Addl.Chief Secretary to Government, Department of Home Affairs & Justice, reads as under:

“Whereas it is observed that over a period of time, the menace of drug peddling, distribution and abuse has spread in the State.

2.0 Whereas the menace has taken serious proportions as a result of lack of effective strategy and the absence of a coherent national policy to eliminate and discourage production of drugs in the country;

3.0 Whereas the abuse of drugs is adversely impacting the progressive and dynamic character of a large population of the State, severely impairing socio-economic and physical health of our youth;

4.0 Whereas there is a dire need to effectively check the supplies, distribution and abuse of drugs, particularly the synthetic drugs in the State, showing zero tolerance and firm commitment to obliterate these from the State.

5.0 Therefore, the Government of Punjab has decided to constitute a Special Task Force (STF) headed by Additional Director General of Police under the direct control and supervision of the Chief Minister, Punjab as per the following:

(i) The Special Task Force would dedicate itself to three-fold objectives as noted below:-

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- Criminal prosecution of all those indulging in drug peddling, supply and distribution;
- Rehabilitation with compassion and sympathy for those who have become habitual of drug intake/consumption; and
- Mass awareness campaign and people's participation to inculcate social opprobrium for drugs to remove them from day-to-day life of the citizens, more importantly the youth in the State.

(ii) The broad functions of the Special Task Force would be as following:-

- to develop strategies, measures and methods to enforce the law against drug-trafficking, prevent drug abuse, rehabilitate the drug victims and co-ordinate with other governmental agencies and police units to achieve this objective.
- to work in coordination with the District Police, GRP and other police units and supervise the registration and investigation of cases under the charter of STF;
- to recommend disciplinary action and/or criminal action against the police, health and officials of other departments found involved in illegal/unlawful activities related to drug-trafficking that come to its notice.
- to collect technical/human intelligence and maintain surveillance in accordance with the existing provisions of law, plan and execute special operations against drug-traffickers through special STF teams and also in association with other units of Punjab Police as well as other departments of the Government.
- to co-ordinate the work of government departments regarding the above charter as per instructions of the Government issued from time to time.
- to commission or conduct data analysis and make recommendations to the Government for necessary policy changes; and
- to perform such other duties as may be assigned by the Government from time to time.

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(iii) In its endeavor to achieve the stated objectives, the Special Task Force would pursue the following approach with regard to enforcement of relevant laws:

- Develop actionable intelligence and act on such intelligence to enforce the Narcotic Drugs and Psychotropic Substances Act, 1986 and all related criminal and civil laws to sever the drug supply lines by taking stringent action against the drug suppliers, dealers and peddlers;
- Guide, supervise, coordinate and monitor the action of the District Police/other police units/State Law Enforcement Agencies in enforcement of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 and all related criminal and civil laws;
- Coordinate with various agencies at the level of Government of India including MHA, NCB, ED, IB, Cabinet Secretariat, etc. for effective enforcement of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 and all related criminal and civil laws; and
- Take measures to create a mass sentiment against the menace of drug abuse in the state and enlist the support of the public for efficient and effective law enforcement.”

8. Apart from the above, the STF task was to identify and layhold of kingpin big dealers and distributors in drugs to obliterate drug from the State, whereas poor consumers were to be dealt with compassion and sympathy. The State Crime Police Station, Mohali having jurisdiction with all over Punjab was concurrently also notified as STF Police Station and it was also given liberty to hire professional/special expert/consultant services with the prior approval of the competent authority namely the Chief Minister, Punjab.

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The way the matter proceeded over the years :-

9. On 03.10.2017 the following directions were issued:-

“11.....

(i) Let the complete addresses/particulars of all the Medical/Pharmaceutical shops duly registered till date, be notified on the website of the Health Departments of the States of Punjab, Haryana and UT Chandigarh. Particulars of the Pharmacist in whose name licence has been granted, the actual owner/occupier of the premises shall also be cross-checked and displayed on the website. In this process, the validity of all the licences shall have to be verified and those found running medical shops without any renewed or valid licence, their shops shall be closed forthwith;

(ii)The District Level Committees which were ordered to be constituted vide order dated 13.01.2016 and which are said to have been constituted, are directed to conduct inspection of the medical halls/shops in their respective areas to verify whether the person who has been granted licence is actually running the same or such shops are being run in the absence of licenceholder;

(iii)The orders constituting the District Level Committees shall be produced on the next date of hearing along with advance copies to learned Amicus Curiae and other counsel appearing in the matter;

(iv) The status report filed by the State Drug Controller, Haryana contains vague averment regarding issuance of show cause notices to medical halls/shops. Let the grounds/contents

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of the show cause notices be elaborated by way of a separate status report on the next date of hearing;

(v) Since the STF constituted by State of Punjab has acknowledged the requirement of associating the students, in coordination with the Education Department, the STF is directed to approach Sh. Krishan Kumar, IAS who, we are informed, is now posted as Secretary, School Education, Punjab, so as to use his good offices for evolving some interesting curriculum/booklet or comic books or any such material through which the students in different age-groups can be made aware of the ill-effects of drugs and as how to prevent the drug menace in the schools or their houses;

(vi) We are informed that NCERT has prepared a module book for Class-VI to X on this very subject. It shall be appreciated if the material contained in that book is utilized for the aforesaid purpose. Similar exercise shall be undertaken by States of Haryana and UT Chandigarh. While preparing the curriculum, emphasis shall be given to impart moral instructions to the students of different age groups;

(vii) As regard to improving the conditions of inmates in jail, it is suggested that urine and blood test of every inmate be conducted as soon as they are brought to the jail and thereafter such tests be held periodically to verify whether or not such inmate is a drug addict, and if so, desirability of taking him to the De-addiction Centre be considered. The complete medical check up of the inmates shall be compiled. Status reports be filed in this regard by both the States and UT Chandigarh;

(viii) States of Punjab, Haryana and UT Chandigarh are further narcotic/synthetic and controlled substances recovered

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under the NDPS Act in terms of the Government of India Notification No.28(E) dated 16.01.2015 whereunder a complete procedure for disposal of such like drugs has been prescribed. Let a decision in this regard be taken and produced on the next date of hearing.”

10. An affidavit dated 03.10.2012 was filed by Shri B.Srinivasan, Additional Secretary, Health and Family Welfare, Punjab wherein it was mentioned that three criminal cases have been registered under the Narcotics Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’) read with different provisions of Indian Penal Code (for short ‘IPC’) wherein one Inspector Inderjit Singh found to be in collusion with drug traffickers. The details of the FIR regarding the involvement of Inderjit Singh in the said case reads as under:

“12. STF is working to break the nexus between the law enforcement agencies and drug traffickers. As a part of this drive, STF has registered the following criminal cases against police officers, which are under investigation:

i. FIR No.1, dated 12.06.17, u/s 21, 22, 59(2)(b) NDPS Act, 1985 & 218, 466, 471, 120-B IPC, PS STF, SAS Nagar.

ii. FIR No.2, dated 25.07.17, u/s 21, 29 NDPS Act, 1985 & 365, 384, 120-B IPC, PS STF, SAS Nagar.

iii. FIR No.186, dated 11.09.2017, u/s 21, 27 NDPS Act, 1985 & 353, 186 IPC PS Sadar Muktsar, Sri Muktsar Sabib.

11. Counsel for the amicus curiae had apprised the Coordinate Bench that the STF was constituted to look into the complicity of Shri Raj Jit Singh, Senior Superintendent of Police regarding the nexus between Law Enforcement Agency and drug traffickers. Resultantly, directions were issued on 28.11.2017 to Mr. Harpreet Singh Sidhu, head of the STF

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to file his own affidavit and apprise the Court with the outcome of the enquiry/investigation to be carried out by STF in this regard. Para No.6 of the said order reads as under:

“[6] Shri Anupam Gupta, learned Senior counsel has taken us through the brief report on the Special Task Force, Punjab, which was appended alongwith affidavit dated 03.10.2017 filed by Shri B.Srinivasan, Additional Secretary, Health and Family Welfare, Punjab. Para 12 of the said report unveils that STF is working toward breaking the nexus between the Law Enforcement Agency and drug traffickers. It is disclosed that as a part of this drive, STF has registered three criminal cases under the Narcotics Drugs and Psychotropic Substances Act, 1985 (for brevity, 'the NDPS Act') read with different provisions of Indian Penal Code. Shri Gupta informs that as per media reports, in one of the cases the investigation is complete and charge-sheet has been filed and one Inspector Inderjit Singh has been allegedly found to be in collusion with drug traffickers. Shri Gupta further informs that as per the information gathered by him, Inspector Inderjit Singh is closely associated with one Mr.Raj Jeet Singh, who is posted as Senior Superintendent of Police at Moga. We are informed that in the past also, Inspector Inderjit Singh was transferred to the same district wherever Mr.Raj Jeet Singh was posted as Senior Superintendent of Police. Shri Gupta Submits and rightly so that it is imperative upon STF headed by Shri Harpreet Singh Sidhu to focus on the complicity of Mr.Raj Jeet Singh, if any, in the context of breaking the nexus between Law Enforcement Agency and drug traffickers. We, thus, direct Shri Sidhu to file a status report by way of his own affidavit and apprise the Court with the outcome of the enquiry/investigation to be carried out by STF in this regard.”

12. The FIR No.1 dated 12.06.2017 went on to show that Inderjit Singh, a former Inspector of District Tarn Taran, was alleged to be involved with smugglers and syndicates. It had come forth in the investigation that he had been organizing smuggling of narcotics through various associates. The modus operandi which started surfacing at that

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point of time was that he was having substantive rank of Head-Constable and he was not competent to investigate the cases under the NDPS Act, not being a regular Sub-Inspector. The sum and substance of the pattern which had emerged was that in connivance with the drug smugglers where heavy recovery was involved, his name was forwarded as Investigating Officer which eventually lead to the acquittal of the accused on account of the fact that the notification of the State Government was empowering the officers over and above the rank of Assistant Sub-Inspectors to exercise powers specified under Section 42 and 67 of the Act. He was also suspected of falsely involving people in the drug cases and extorting money from them. His complicity was found with the then Sr.Superintendent of Police, Moga, namely Raj Jit Singh with whom he had remained posted at various districts including Tarn Taran and Hoshiarpur on his recommendations. The drug samples which had failed were also examined with the purpose that fake drugs were planted for extorting money from poor consumers, whereas actual drugs which were recovered were made to fail with the help of the personnel posted at the Forensic Laboratories with the purpose to help the drug smugglers and for getting illegal gratifications.

13. An application bearing CM-18041-CWP-2017 came to be filed by the said SSP, Raj Jit Singh Hundal, that investigation in the FIR No.1 dated 12.06.2017, under Sections 59 (2) (b), 21, 22, 61 of the NDPS Act, 1985 and Sections 218, 466, 471, 120-B IPC read with Sections 25/54/59 of the Arms Act registered at Police Station STF, SAS Nagar qua the applicant be entrusted to an officer other than Harpreet Singh Sidhu, ADGP (STF). Without going into the veracity of the allegations and without issuing notice to the said officer vide order dated 15.12.2017

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earlier directions in para No.6 were modified of the order dated 28.11.2017 that the SIT comprising of Mr. Siddharth Chattopadhyaya, IPS, 1986 Batch, DGP (HRD); (ii) Mr. Prabodh Kumar, IPS, 1988 Batch, ADGP-cum-Director, Punjab Bureau of Investigation, Chandigarh and (iii) Kunwar Vijay Pratap Singh, IPS, 1998 Batch, presently posted as IGP, ATS would be constituted and report be submitted to the Court regarding the outcome of the investigation directed. The purpose as such was to break the nexus between the Law Enforcement Agencies and the drug traffickers.

14. The order dated 15.12.2017 reads as under:

“[4] The aforementioned application has been moved in the backdrop of the directions issued by this Court vide order dated 28.11.2017, in para-6 whereof, this Court took cognizance of the information given by Mr.Anupam Gupta, Senior Advocate during the course of hearing and having regard to the nature and gravity of the allegations made against the applicant-Raj Jit Singh Hundal, SSP, Moga, a direction was issued to the STF headed by Harpreet Singh Sidhu to investigate the issue of complicity of the applicant in the context of breaking the nexus between Law Enforcement Agency and drug traffickers. The Head of the STF was directed to file status report by way of his affidavit. It is averred in the application by Raj Jit Singh, SSP, Moga that he is not likely to get a fair and impartial investigation at the hands of Mr.Sidhu on account of latter's alleged personal bias against the applicant.

[5] We have not gone into the veracity of the allegations as neither any notice was issued to Mr.Harpreet Singh Sidhu nor his viewpoint is otherwise on record. Learned Advocate General, Punjab has nevertheless refuted the allegations made by the applicant against Mr.Harpreet Singh Sidhu, head of SIT though he fairly states that he has no objection if the investigation of the allegations made against Raj Jit Singh Hundal, SSP, Moga is entrusted to a team of officers as may be chosen by this Court.

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[6] Owing to the fact that the applicant apprehends denial of fair and impartial investigation with reference to the allegations levelled against him in a section of media, we deem it appropriate to modify para-6 of our order dated 28.11.2017 to the extent that the allegations or complicity of Raj Jit Singh Hundal, SSP, Moga in respect of his alleged association with Inspector Inderjit Singh, emanating out of FIR No.1 dated 12.06.2017, be investigated by a Special Investigation Team comprising (i) Mr.Siddharth Chattopadhyaya, IPS, 1986 Batch, DGP (HRD); (ii) Mr.Prabodh Kumar, IPS, 1988 Batch, ADGP-Cum-Director, Punjab Bureau of Investigation, Chandigarh, and (iii) Kunwar Vijay Pratap Singh, IPS, 1998 Batch, presently posted as IGP, ATS.

[7] The SIT, headed by Mr.Siddharth Chattopadhyaya, shall report to this Court of the outcome of the investigation directed herein-above and shall submit its first status report in a sealed cover on the next date of hearing, i.e., 31.01.2018.

CM stands disposed of.”

15. In pursuance of the investigation, the SIT submitted report dated 30.01.2018 in a sealed cover which was opened and perused by the then Bench and the request to grant 2 months time for submission of the final report was accepted with the direction that DGP, Punjab as well as Home Secretary, Punjab would provide all assistance to the said SIT. The status of the investigation in FIR No.1 dated 12.02.2015 was also given but challan was not to be presented till further orders. The assistance from the various other departments of ED, Income Tax Department, State Narcotics Control Bureau was to be given to the SIT. Report of Harpreet Singh Sidhu, Head of the STF was also forwarded to the Directorate of Enforcement to consider the said findings and proceed further in accordance with law and the State Government was also directed to have a look at it as it required consideration at its end and the opinion was to be given on the next date.

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16. The second report was submitted on 15.03.2018 and 6 weeks time was granted to look into the issues and submit a comprehensive report by the Head of the SIT. The report had also been perused by the Bench and kept in safe custody of the Registrar (Judicial) of this Court. Report of the Deputy Director, ED had also been examined and it was noticed that PML cases were continuing in accordance with law and further status reports were given.

17. Before the third report could be given, CM-5328-CWP-2018 came to be filed by the Head of the SIT, Mr.Chattopadhyaya wherein he sought transfer of the investigation of FIR No.1 dated 12.02.2015 lodged at Police Station Airport, Amritsar to the Central Bureau of Investigation or to a Retired Judge of this Court. His application was based on the ground that one Inderpreet Singh Chadha had committed suicide and left behind 2 suicide notes in which he was not named. The FIR had been registered by Prabhjot Singh, his son and the averments made in the application was that the deceased was in the habit of writing diary and notes and he had sent the same to the Hon'ble Chief Justice of this Court and also to the applicant the Head of the SIT being a member of the NRI Commission. The notes were stated to be dated 10.04.2016 and 29.05.2016. The grouse of the deceased was regarding seeking judicial orders passed by the NRI Commission of which the applicant had been at one point of time a member. The orders were passed in the said case of Ms.K.Ghuman against the deceased and the company associated with him and one of the orders had been challenged by the said lady before this Court in CWP-12918-2016. The deceased had also challenged the complaint filed by the said lady in CWP-29290-2016 and it was averred that there were no allegations against the applicant, the Head of the SIT.

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The averments were that when the order was passed on 01.12.2016 by the NRI Commission headed by Retired Judge of this Court, directing to register case against the deceased, the applicant was not a member having been transferred on 09.08.2016. Thus, it was the case that his name was not in the original FIR and he was harassed in the name of investigation which was for changing the course of the investigation being conducted under the directions of this Court. The SIT headed by Shri L.K.Yadav, IGP (Crime) was looking into the said suicide case and was harassing the applicant and that the lady was taken into custody with the motive to pressurize him and influence the report. The questionnaire which was being served upon him dated 02.04.2018 were also appended with the application. It was alleged that the name of various officers had come to light and other facts and orders including the report and including a benami house of the DGP was being investigated to confirm their involvement with Inspector (ORP) Inderjit Singh with SSP Moga, Shri Raj Jit Singh. The officers named in the application were the serving DGP Shri Suresh Arora and Shri Dinkar Gupta (IPS) DGP, Intelligence and it was alleged that they were the supervisory officers of the members of the SIT under which Shri L.K.Yadav was investigating the FIR lodged under Sections 306, 384, 506, 120-B IPC.

18. The Co-ordinate Bench vide order dated 06.04.2018 issued notice and stayed the proceedings against the Head of the SIT though the investigation was to continue against the other suspects. The said order reads as under:

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“Notice to Advocate General, Punjab.

On our asking, Mr.Sahil Sharma, DAG, Punjab, who is present in Court, accepts notice. On our request, learned Advocate General, Punjab has also assisted the Court.

The matter has been heard for a while. Learned Advocate General, Punjab seeks time to have appropriate instructions in the matter.

Meanwhile, investigation of FIR No.1, dated 03.01.2018, registered at Police Station Airport, Amritsar qua Shri Siddharth Chattopadhyaya, IPS, Director General of Police, HRD, Punjab shall remain stayed. However, the investigation may continue against other suspects in accordance with law. The record of investigation be produced on the next date of hearing.

List on 23.04.2018. Annexures I to VI attached with the miscellaneous application in a sealed cover are opened and perused and the same be resealed.”

19. The matter was effectively then taken up on 23.05.2018 on which date the report dated 08.05.2018 submitted by the three members was given under the sealed cover. Another report of the same day was also submitted by the Head of the SIT which was not signed by the other two Members which was also accepted in sealed cover. Relevant part of the order as to how the Bench proceeded to deal with the said reports read as under:

“(1) The SIT headed by Mr. Siddharth Chattopadhyaya, IPS, constituted vide order dated 15.12.2017, has submitted its report dated 08.05.2018 in a sealed cover to the Registrar Judicial of this Court. Another report of the same date is said to have been submitted by Mr. Chattopadhyaya alone as it is not signed by two other members of the SIT. The said report has also been submitted in a sealed cover. Earlier also, the SIT had submitted two reports dated 01.02.2018 and 15.03.2018. All these reports need to be examined in conjunction with reference to the issues formulated by this Court or the task assigned to the SIT by way of orders

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passed from time to time. The Registrar Judicial would produce the sealed reports/entire record before us on the day and time as would be separately intimated to him, for our indepth consideration of these reports.”

20. Apart from that, various other directions were also given to complete the investigation of FIR No.1 dated 12.06.2017 registered by the STF, SAS Nagar, Mohali whereas regarding FIR No.1 dated 03.01.2018 registered at Police Station, Airport Amritsar, the Court noticed that the challan against the other accused had been presented. The stay was thus directed to be continued in favour of the Head of the SIT and directions were passed on other reports regarding the long-term and short-term projects undertaken by the Union of India pertaining to BSF and the projects for the safety and security of the international border etc.

21. On 31.08.2018, the matter was listed before the Hon’ble Chief Justice and on account of inability of the other Member of the Bench to hear the matter, it was released from the Board and listed before another Bench comprising of the then Hon’ble Chief Justice. Various reports were filed thereafter but the matter could not be taken up for effective hearing and then Covid-19 intervened.

22. On 13.08.2021, the Bench directed that the reports be produced in the Chambers and the same were perused and the matter was released from the said Bench on 01.09.2021 as one of the members had wished to recuse. Reports were again called for by another Co-ordinate Bench and another Learned Judge recused on 01.02.2022 and fresh status reports were called for and more reports were furnished. Another Learned Judge recused for proceeding in the matter on 17.08.2022.

23. On 31.08.2022, various reports and affidavits were filed and matter was listed before one of us (G.S.Sandhawalia J.). On 27.01.2023

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specific application was filed bearing CM-266-CWP-2022 by the intervener, Tejinder Singh Sudan, Advocate, President, Chandigarh Unit Lawyers Rights International through Shri Navkiran Singh, Advocate for acting upon the reports. Resultantly, all the reports were opened which had been submitted and it was directed that photocopies be given to the State except of the third report dated 08.05.2018. On that day, we directed that the photocopies of the reports given by Dr.Nirmaljeet Singh Kalsi dated 08.02.2018, report by Mr.Deepak Chauhan, Assistant Director dated 23.05.2018, 2 reports by Shri Niranjana Singh, the then Deputy Director, Enforcement Directorate be given to the State Government and the State was to examine the said reports and take necessary action as and where required and submits status reports. The sealed tablaq containing the other reports were also perused and re-sealed.

24. The grouse of the intervener in CM-266-CWP-2022 was that the three reports submitted by the SIT be opened by the State and action be taken against the erring police officials who were acting in connivance with the drug traffickers. The apprehension by the intervener was that State of Punjab was not taking any action on the reports lying in sealed cover and reference was also made to the report of the STF, FIR No.2 dated 20.12.2021 registered at Police Station Punjab State Crime, SAS Nagar against Bikram Singh Majithia under Sections 25, 27(a) and 29 NDPS Act. In the application, there was a reference to the reports submitted by Shri Chattopadhyaya alone also while referring to the order dated 23.05.2018 passed by the Co-ordinate Bench. The prayer in the application was as under:

“Therefore, keeping in view the above-said facts and circumstances, it is humbly prayed that this Hon’ble Court may

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direct the State of Punjab to act upon the reports dated 01.02.2018, 15.03.2018 and 08.05.2018 submitted by the SIT headed Mr. Siddharth Chattopadhyaya IPS constituted vide order dated 15.12.2017 as reflected in orders passed by this Hon'ble Court on 23.05.2018. The reports contain outcome of enquiry conducted by the SIT against the erring Police Officials who are allegedly acting in connivance with the drug traffickers.”

25. Reply to the application was filed by the State that the report had not been handed-over to the State of Punjab and therefore, it could not act upon the same and the allegations were misconceived regarding its failure. It was further averred that the State of Punjab was duty bound to act on the directions passed by this Court on the reports submitted by the SIT.

26. On 28.03.2023, we went through all the three reports and it was brought to our notice that the other Members of the SIT had written to the Addl.Chief Secretary, Department of Home Affairs and Justice on 20.04.2018 and to the Advocate General, Punjab on 30.04.2018 regarding the conduct of the Head of the SIT regarding the Court proceedings which had taken place in the intervening period between the furnishing of the second report and the third report. It was also brought to our notice that there were serious disputes inter se between the Head of the SIT. On the said date, an application by Mr.Suresh Arora Ex-DGP bearing CM-5610-CWP-2023 under Order 1 Rule 8-A read with Section 151 CPC praying for intervention and for assisting the Court also came up. Resultantly, we issued notice to the State of Punjab to file status report as to what is the latest status qua the other accused in FIR No.1 dated 03.01.2018 lodged at Police Station Airport, Amritsar and directed that all reports be again opened except the report submitted by the Head of the SIT in his personal capacity. The office was directed to place all the reports in a separate file

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and duly index it. Since aspirations were also cast upon Mr.Dinkar Gupta, we also issued notice to him for filing his reply. The State was given liberty to take action on the reports except the report submitted in the personal capacity by the Head of the SIT. Relevant portion of the order dated 28.03.2023 regarding this aspect reads as under:

“19. However, it is open to the State to take action upon the reports dated 01.02.2018, 15.03.2018 and 08.05.2018 of the SIT and also the other reports submitted by other officials which we have indexed separately, in case they wish to do so, except the report dated 08.05.2018 submitted by Mr.Chattopadhyaya in his personal capacity.”

27. On 04.05.2023, we permitted the State to file the final reports in FIR No.1 dated 12.02.2015 under Sections 7, 8, 13(2), 88 of the Prevention of Corruption Act, P.S.Vigilance Bureau, EOW, SAS Nagar, Mohali which had been stayed on 15.03.2018. The sealed envelope by the Joint Director of Income Tax also addressed to the Assistant Solicitor General of India had been opened and thereafter, re-sealed and handed over to the counsel for the Union of India for further action if so required.

28. Mr.Dinkar Gupta filed his affidavit vide CM-7809-CWP-2023 in CWP-20359-2013 which was taken on record wherein it was averred that the Head of the SIT was settling his scores and not addressing the issue of drug menace and he had violated the mandate entrusted to him by creating the SIT to investigate the allegations of complicity of Mr. Raj Jit Singh in respect of the alleged association with Inspector Inderjit Singh. An attempt had been made to tarnish his image on account of his service rivalry which had been adjudicated upto the Apex Court in the reported judgment in **Mohd. Mustafa Vs. Union of India & others, 2022 (1) SCC 294**. Resultantly, the report dated 08.05.2018 was challenged on the

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ground that it was neither authorized nor permitted by this Court and did not have any existence in the eyes of law and was a product of malice and bias and given for the sole purpose of harassing the said deponent and only to harm his service career and was serious misconduct by the Head of the SIT.

29. The State, in its status report dated 02.05.2023 brought to our notice that it had dismissed Raj Jit Singh, the then SSP, Moga by involving the provisions of Article 311(2)(b) of the Constitution of India read with Rule 13 (2) of the Punjab Civil Services (Punishment & Appeals) Rules, 1970, on the basis of the investigation conducted by the SIT since it had found complicity of the said officer with Inderjit Singh (ORP)/Inspector. Vide the order of even date the State had also asked the DGP to nominate Raj Jit Singh as an accused in FIR No.1 dated 12.06.2017 by invoking the provisions of Section 120-B IPC and for conducting registration into the said FIR under Sections 59(2)(b) NDPS Act, Sections 218, 466, 471, 120-B IPC. The role of all police officials however highly placed, directly or indirectly who had helped in drug trafficking/smuggling were to be looked into by the Investigating Officer who was to be a Senior IPS Officer. Various other directions including action to be taken against senior officers who approved transfers, promotions, grant of Local Rank to Inderjit Singh was to be done. Relevant portion reads as under:

“2. You are asked to take following actions as per law immediately:-

(i) FIR No.1 dated 12.06.2017 u/s 59(2)(b) NDPS Act, 218, 466, 471, 120-B IPC was registered against Inderjit Singh ORP Inspector at Police Station, Special Task Force, SAS Nagar. The SIT reports show that Sh. Raj Jit Singh PPS was hand in glove with Inderjit Singh. Therefore, he should also be nominated as an accused u/s 120-B IPC in the same FIR.

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(ii) Depute a senior officer to conduct investigation into FIR No.1 dated 12.06.2017 u/s 59(2)(b) NDPS Act, 218, 466, 471, 120-B IPC was registered against Inderjit Singh ORP Inspector at Police Station, Special Task Force, SAS Nagar. While conducting the investigation, all the three reports of SIT should be taken into account. The Investigating Officer should examine the role of all concerned Police officers, howsoever highly placed they may be, who have directly or indirectly helped in drug trafficking/smuggling. The Investigating Officer should be directed to conclude the investigation within a month and submit the report.

(iii) It is not possible for a low rank ORP Inspector to run such a huge network of extortion and drug trafficking alone. Action should be taken against the Senior Officers who approved transfers/promotions/grant of Local Rank to Inderjit Singh (Dismissed ORP Inspector) on the recommendations of Raj Jit Singh PPS. For identification of such Senior Officers relevant files should be sent to the Government at 4.00 pm tomorrow.

(iv) It appears from the investigation conducted by SIT that Inderjit Singh (dismissed ORP Inspector) was favorite of many Police Officers. Therefore please report within 3 days as to whether any other SSP/IPS officer had requested for posting of Inderjit Singh with him.

3. This is being issued with the approval of Hon'ble Chief Minister, Punjab."

Issues for consideration :-

30. Keeping in view the above manner in which the matter has proceeded for over a decade, we are of the considered opinion that following 2 questions arise for consideration of this Court:

(i) Whether the report of even date i.e. 08.05.2018 of the Head of the SIT given in his individual capacity is to be examined and whether any directions have to be issued to ask the State to take action on the said report since it has already

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been directed that the earlier reports be opened and indexed and action be taken if the State wishes to do so ?

(ii) Further course of action for the States to proceed and whether this Court is to continue monitoring the same since already over a decade has passed and precious judicial time has been consumed as noticed in the preceding paras?

Submissions of counsels on Question no.1 :-

31. Mr.R.S.Cheema, Sr.Advocate, in support of his application for intervention, accordingly argued on behalf of Mr.Suresh Arora that the mandate of the Court was to appoint the SIT vide order dated 15.12.2017 which was a three Member Body and the report had to be signed by all. The same was on the basis of apprehension by Raj Jit Singh and it was on his account itself, the SIT had been set up since on an earlier occasion on 01.02.2018, the STF was to look into it and para No.6 of the earlier order had accordingly been modified. The transgression was made by the Head of the SIT who went beyond the scope and ambit of all the directions of this Court. It is accordingly argued that it was a mala fide enquiry and was made to divert the attention since the Head of the SIT himself got embroiled in FIR No.1 dated 03.01.2018 and got an interim order dated 06.04.2018. Without taking the other members of the SIT into confidence while referring to the correspondence dated 01.02.2018 and 15.03.2018 addressed by other members protesting against the said conduct of the Head of the SIT. It had resulted in the order dated 23.05.2018 being passed whereby the reports had been directed to be sealed and all the reports had to be examined in continuation by virtue of the said order and thus, it had effectively put a halt to further proceedings on account of the conduct of the Head of the SIT.

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32. Reliance was placed upon the final report dated 08.05.2018 wherein in the first para itself, reference had been made to the composition of the SIT and the mandate that it was to investigate in the allegations of complicity of Shri Raj Jit Singh Hundal with respect to Inderjit Singh, ORP Inspector emanating from FIR No.1 dated 01.01.2018 and that the complicity of Inderjit Singh with other officers had to be a subject matter of separate enquiry and investigation, as reproduced in para No.12 itself. Reliance is placed upon the service litigation which originated before the Central Administrative Tribunal initiated by the Head of the SIT at a later point of time on 01.03.2019 in which both Mr.Dinkar Gupta and Mr.Suresh Arora were arrayed as respondents No.4 & 5 and wherein in the body of the OA also reference had been made to the proceedings which had taken place before this Court regarding the filing of CM-5328-CWP-2018 in CWP-20359-2013 to get protection for his personal litigation in FIR No.1 dated 03.01.2018 lodged at Police Station Airport, Amritsar on account of the suicide of Inderpreet Singh Chadha. It was argued that all on account of the fact that he was well aware that the post was falling vacant on 30.09.2018 and he was in the race along with his junior Shri Dinkar Gupta for the post of the DGP to which he eventually got beaten to the said assignment which had led to the filing of the Original Application since on 07.02.2019 State opted to appoint Shri Dinkar Gupta as the DGP and in the panel, Shri Suresh Arora was a member and was instrumental for the appointment of Shri Dinkar Gupta.

33. It was accordingly contended that the Tribunal had allowed the OA on 07.01.2020 which had been set aside by the Division Bench of this Court on 06.11.2020 and eventually the order had been passed by the Apex Court on 16.11.2020 in Mohd.Mustafa (supra) upholding the order

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of the Division Bench of this Court and approving the appointment of Shri Dinkar Gupta. It was pointed out that before the Apex Court the stand of the State was crystal clear that the subject matter of the report of the Head of the SIT was in his individual capacity and was an attempt to scuttle chances of Mr.Dinkar Gupta and thus, the Head of the SIT had abused his position and submitted a false and self-serving report. The counter-affidavit filed before the Apex Court by Shri G. Nageswara Rao, IPS, Secretary Department of Home Affairs and Justice, Punjab, Chandigarh was referred to. Relevant paras of the said affidavit which read as under:

“The timing of the allegations against Sh. Arora and Sh. Dinkar Gupta filed in the High Court couple with the submission of the sole report is significant. The application was filed on 05.04.2018 and the unauthorized single member report was submitted on 08.05.2018, knowing fully well that the post of DGP would fall vacant on 30.09.2018, when Sh. Dinkar Gupta would be considered against him. It seems that the Petitioner abused his position as the head of SIT by submitting a false and self-serving report targeting Sh. Dinkar Gupta and Sh. Suresh Arora.

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28. The Petitioner had filed an Application bearing C.M. No.5328 of 2018 on 05.04.2018 wherein he had made false allegations against Sh. Suresh Arora and Sh.Dinkar Gupta. The other two members of the SIT wrote letter stating that the contents of Affidavit dated 05.04.2018 filed by Siddharth Chattopadhyaya making allegations against Suresh Arora and Dinkar Gupta were not discussed in the SIT and were unilaterally filed by Siddharth Chattopadhyaya, clearly proves that Siddharth Chattopadhyaya went beyond the mandate assigned by the SIT by the Hon'ble High Court. The other members of the SIT had no knowledge of the allegations made against the said persons nor of the said Affidavit/ report filed by Siddharth Chattopadhyaya unilaterally. In view of the same, the unsubstantiated and unknown allegations contained in a sealed cover, which have not been disclosed to the State for verification, or to the concerned officers for rebutting the

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allegations made against them, cannot in any manner affect the consideration by the Empanelment Committee.

A true copy of the letter dated 20.04.2018 written by Prabodh Kumar, member of SIT is annexed herewith as ANNEXURE R-2/9 (Pgs. 196 to 197).

A true copy of the statement of Kunwar Vijay Partap Singh, another member of the SIT is annexed herewith as ANNEXURE R-2/10 (Pgs. 198 to 199).

A true copy of Letter dated 30.04.2018 addressed to the Advocate General, Punjab is annexed herewith and marked as ANNEXURE R-2/11 (Pgs. 200 to 201).

A true copy of the Press Statement of Kunwar Vijay Partap Singh dated 15.06.2018 and published in the Hindustan Times is annexed herewith as ANNEXURE R-2/12. (Pgs.202 to 204).

29. As regards the allegation of benami house of the DGP, it is submitted that the State Government conducted an inquiry on basis of facts available in public domain and it was found that the property in question was not benami, and the ownership and source of income for the purchase and construction of the said property was established in the inquiry. Since, the matter is still under the consideration of the Hon'ble High Court, the Answering Respondent craves leave to file the relevant documents before this Hon'ble Court, if so directed, at a later stage."

34. Reliance was accordingly placed upon the observations of the Apex Court also wherein this issue was raised and eventually finding was recorded that Mr.Suresh Arora's placement in the panel was not an issue which was unknown to the Head of the SIT and being the DGP, he was duty bound to be a member of the Empanelment Committee. The issue being discussed by the Apex Court read, as under:

"The State raised serious objection to the allegation of bias made by the Appellants against Respondent No.4 and 5. Mr. Rohatgi stated that the Appellant abused his position as the head of a special investigation team by filing a report which was not signed by the other members of the team to tarnish the reputation of Respondent No. 4 and 5. Mr. Rohatgi stated that the report filed by

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the Appellant without the signatures of the other members of the Committee is still lying in a sealed cover before the High Court. It was submitted on behalf of the State that the Appellant was fully aware of initiation of the process for appointment of DGP and the presence of Respondent No.5 in the Committee but did not raise any objection to his continuance in the Empanelment Committee. The Appellant cannot be permitted to raise a bogey of bias at this late hour. In any event, Respondent No.5 was required to continue in the Empanelment Committee as per the doctrine of necessity. The State Government refuted the contention of the Appellant that there was suppression of relevant record. It was argued that the relevant record was sent to the Public Service Commission. The State Government cannot be accused of favouring Respondent No.4 by not sending the said report to the Public Service Commission. Mr. Rohatgi submitted that the Draft Guidelines have been followed for empanelment and selection of a number of DGPs in several States. The Empanelment Committee comprises of senior officers of which Respondent No.5 is one member. The selection cannot be said to be biased when the allegation of prejudice is against one member of a multi-member Committee.

11. Mr. Maninder Singh, learned Senior Counsel, stated that Respondent No.4 has an exemplary record of service and is a highly decorated officer with more medals than the Appellant. Responding to submissions of the Appellant pertaining to the report filed in the High Court, Respondent No.4 contended that there is a sinister motive on the part of the Appellant in trying to mislead this Court that the said report was filed by the special investigation team. In fact, two reports were filed by the special investigation team on 01.02.2018 and 15.03.2018. The said reports were signed by all the members of the Committee in which no allegations were made against Respondent No.4. Later, another report was filed by the Appellant alleging that Respondent No.4 was involved in certain criminal activities. The said report was given in a sealed cover to the Court. The other members of the Committee have gone on record to state that they were not consulted before the said report was filed before the Court nor do they have any knowledge about the contents of the report. The

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Appellant was facing a criminal charge in a case registered under [Section 306](#) IPC and had engineered the report only for the purpose of maligning Respondent No.4 to steal a march over him for selection and appointment as DGP.

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27. The Appellant contended that Respondent No. 5 ought to have recused himself from the Empanelment Committee as he is inimically disposed of towards him. The Appellant argued that he was appointed to head a special investigation team by the High Court of Punjab and Haryana to investigate the involvement of law enforcement authorities in drug trafficking and he unearthed material against senior police officers. He was falsely implicated in a criminal case involving the suicide of Inderpreet Singh Chadha. It is the case of the Appellant that he submitted a status report to the High Court on 18.05.2018 in a sealed cover in which he has mentioned about the involvement of Respondent No.4 and Respondent No.5 in drug trafficking. The Appellant referred to the recusal of Respondent No.5 earlier when he was asked to write his performance appraisal report. Finally, the Appellant submitted that the preparation of panel is vitiated due to bias of the Respondent No.5. On the other hand, it was submitted by the Respondents that the Appellant was involved in the suicide of Inderpreet Singh Chadha. The special investigation team headed by the Appellant submitted two reports on 01.02.2018 and 15.03.2018 before the High Court in which there is no mention of either Respondent No.4 or Respondent No. 5. The sealed cover submitted by the Appellant before the High Court was without consulting the other two members of the special investigation team. It was further submitted that Respondent No. 5, being the DGP of a State, could not have recused himself from being a member of the Empanelment Committee. It is also argued that the Appellant has not raised any objection regarding the participation of Respondent No.5 in the selection proceedings. Doctrine of necessity was pressed into service by the Respondents to submit that Respondent No.5 could not have recused himself from the Empanelment Committee.

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Therefore, the position that Respondent No.5, being the DGP, would be a member of the Empanelment Committee was within the knowledge of the Appellant. Ignorance of this factum when pretended must be rejected as a mere pretence. The two Appellants are not laymen, but senior police officers aspiring for the appointment to the top police position in the State. In endorsement of our reasoning, we have on record a news article published in the Hindustan Times, dated 30 th January 2019, titled “DGP’s appointment – All eyes on UPSC’s February 4 meet”. The article states that as per the information gathered from officials privy to the development, the UPSC meeting will be held in Delhi and would be attended by the Punjab Chief Secretary Mr. Karan Avtar Singh and the incumbent DGP Mr. Suresh Arora, i.e., Respondent No.5. In the given facts and considering the position and status of the Appellant, we would not accept the plea that participation of Respondent No.5 in the Empanelment Committee was unknown or a secret for the Appellants.”

35. Mr.Randeep Singh Rai, Sr.Advocate appearing for Shri Dinkar Gupta argued that the enquiry report submitted under the sole signature of the Head of the SIT was non est and operated beyond the mandate of this Court and was an act of malice. The questionnaire dated 03.04.2018 had been served upon the Head of the SIT and the DGP was not in the Special Investigating Team and not in any manner interested in the said prosecution of the present Head of the SIT. The suicide notes showed that his name figured and even in his application, there was reference of 2 suicide cases whereas there were other suicide notes recovered. It is submitted that all the three reports signed by the three members were unanimous and mandate of the Court was followed but the Head of the SIT had carried his individual report dated 08.05.2018 and it was only a diversionary tactic raising a bogie of benami transactions. It is

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submitted that the enquiry was also done into the allegations against Mr.Dinkar Gupta and in the final report also submitted by all the three members, it was specified that any complicity of Inderjit Singh ORP Inspector with other officers who had got him posted from time to time would be part of separate enquiry/investigation.

36. It was thus the argument that only on account of the questionnaire being presented on 22.04.2017 regarding the FIR lodged at Amritsar, resort had been taken to protect himself while taking the shelter from this Court in a mala fide manner. The other 2 senior officers had not signed on the report and they had protested against the conduct of the Head of the SIT in filing the report in his personal capacity and not bringing it to their notice.

37. The Amicus Curiae, Mr.Raj Kumar Gupta argued that the issue of drug trade should be investigated by the CBI since even the top police officials had started fighting amongst themselves and the submission of the fourth report was not valid since it was signed by only one member. At that point of time, the Head of the SIT had been protected by the Court due to the exigency of the situation and there was no such requirement for the said protection to continue at this point of time.

38. Mr.Navkiran Singh, appearing for the intervener submitted that the underlying principle which had weighed with the Court while handling this matter was the complicity re: re-enforcement agencies and the drug traffickers which had to be broken and therefore, the report submitted by the Head of the SIT in his personal capacity be also accepted.

39. Mr.Dhuriwala, appearing for the State of Punjab referred to the status report dated 17.04.2018 of Shri L.K.Yadav, Inspector General of Police, Crime Punjab and Chairman of that SIT and elaborated that the

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State be allowed to proceed with the investigation qua Mr.Chattopadhyaya also. It was submitted that sufficient material had come on record to investigate his complicity in the said FIR since statements of the son and advocate of the deceased had been recorded along with the wife of the deceased.

40. Mr.R.Kartikeya for Mr. Chattopadhaya has ably argued that after the affidavit dated 03.10.2017 had been filed by the Addl.Chief Secretary (Health & Family Welfare), Punjab, wherein reference has been given of the 3 cases CM-18041-CWP-2017 had been filed by Raj Jit Singh seeking change of the Investigating Officer and not having any faith in the then Head of the STF, Mr.Harpreet Singh Sidhu. This Court had then appointed Mr.Siddharth Chattopadhyaya as Head of the SIT having great faith on him as he belonged to the 1986 Batch of IPS. The purpose behind the said constitution was that the nexus between the law enforcement agencies and the drug traffickers had to be smashed and it was not a case of just looking at the complicity of Raj Jit Singh and the investigation was not to be limited in any manner since the role of Inspector Inderjit Singh was to be gone into along with his complicity with other police officers. The first report dated 30.01.2018 would go on to show that documents qua the postings together including the postings at Tarn Taran and the false involvement of persons and the acquittals recorded on account of the ORP Inspector Inderjit Singh not being a confirmed ASI and the recommendations for promotions of the said officer and he being recommended for transfer were duly examined. Since it was a case of onerous nature and time consuming, the three Member team sought more time from this Court and submitted its second report on 14.03.2018 in which it was recorded that Inderjit Singh was enjoying the patronage of

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some senior officer. The said report was signed by all the three Members. The report also mentioned that the said officer was in collusion with other police officers and investigation is still being conducted with the State agencies like the Income Tax Department and Directorate of Enforcement and therefore, more time had been taken on 15.03.2018 when the second report had been submitted. It was argued that even in the report sent by all the three Members on 08.05.2018, it had been opined that there were many other officers who have got Inderjit Singh ORP Inspector, now dismissed posted under them from time to time and similar complicity of Inderjit Singh with other officers should be a separate matter of investigation. Therefore, in its individual report, the Head of the SIT had also rightly come to the conclusion that other police officers were also involved and only because there was a dissent and the other Members not willing to sign, he was forced to give his individual report which was also of the same day. The concluding part of the report dated 08.05.2018 signed by all the Members reads as under:

“12. That the investigation by the SIT show that there are many other officers who have got Inderjit Singh (ORP Inspector, now dismissed) posted under them from time to time and similar complicity of Inderjit Singh (ORP Inspector, now dismissed) with those officers can be a subject matter of a separate inquiry/investigation. Even Sh. Rajjit Singh has pointed out in his statement and representations that Inderjit Singh (ORP Inspector, now dismissed) has worked with him only for 14 months and there are many other officers before and after who got him posted with them.

That the Special Investigation Team (SIT) has conducted this investigation on the basis of statements of various witnesses and connected persons. Due opportunities has also been given during the investigation to all concerned persons connected with the case. The investigation has been conducted in an impartial and

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professional manner keeping in view the ethos of established norms of natural justice and as per procedure established by law.”

41. It was pointed out that on 20.04.2018 (Annexure A-7), Prabodh Kumar IPS, Director, Bureau of Investigation, Punjab Chandigarh one of the members had written to the Addl.Chief Secretary, Department of Home Affairs & Justice Punjab Chandigarh that the Head of the SIT was being pressurized by senior officers. Similarly, communication had been addressed on 30.04.2018 to the Advocate General that the other 2 Members had disassociated themselves from the investigation and therefore it was imperative for the Head of the SIT to bring forward the correct position. It was his case that since the other 2 Members were not willing to sign the report, the Head of the SIT had separately given the same. The delay in filing the objections by Shri Suresh Arora and Shri Dinkar Gupta and wanting to be impleaded and objecting to the report at this belated stage is also questioned as to why the application was filed now and they should not be permitted to intervene. The apprehension of false implication in the Amritsar case was accordingly highlighted being the Head of the SIT and proceeding as per the mandate given by the Court. Reliance was placed upon the status report dated 02.05.2023 of the State of Punjab that action would be taken against all as per the order dated 17.04.2023 wherein the Addl.Chief Secretary had directed so. Reference was made to the affidavit of Kamaljit Singh (PPS), Assistant Commissioner of Police, Airport dated 29.04.2023 to submit that challan had been filed and charge had also been framed against 9 persons and the questionnaire had wrongly been sent to the SIT. It is accordingly submitted that Raj Jit Singh had been given plum postings by the other police officers and their complicity had to be gone into.

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42. Resultantly, he relied upon the judgment in **Ramveer Upadhyay & another Vs. State of U.P. & another, (2022) SCC Online SC 484** that merely because the complaint is vitiated by political vendetta, it could not be a ground to quash the criminal proceedings and therefore, mere mala fides would not be a reason and the service rivalries would not be a reason not to accept the investigation report submitted by the Head of the SIT. Similarly, reliance was placed upon **State Bank of India & others Vs. Rajesh Aggarwal & others, 2023 LiveLaw(SC) 243** that the accused has no right to be heard and the principles of natural justice etc. do not come into play and therefore the application for intervention filed were not maintainable at the instance of Mr.Suresh Arora and Dinkar Gupta.

Findings on Question no.1:-

(i) Whether the report of even date i.e. 08.05.2018 of the Head of the SIT given in his individual capacity is to be examined and whether any directions have to be issued to ask the State to take action on the said report since it has already been directed that the earlier reports be opened and indexed and action be taken if the State wishes to do so ?

43. The above sequence of events would go on to show apparently that orders had been passed on 28.11.2017 which has been reproduced in para no.11 wherein specific directions had been issued on account of the fact that Inspector (ORP) Inderjit Singh was found in collusion with drug traffickers and he was closely associated with Raj Jit Singh who was then posted as SSP, Moga and that STF was accordingly directed to focus of his complicity to break the nexus between the law enforcement agencies and the drug traffickers. Thus, the focus was on two individuals at that point of time. The application CM-18041-CWP-2017

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then came to be filed by Raj Jit Singh that the enquiry be entrusted to an officer other than the Head of the STF, Mr.Harpreet Singh Sidhu and resultantly, the SIT was constituted which was to consist of 3 persons. Vide order dated 15.12.2017 earlier directions in para No.6 were modified of the earlier order dated 28.11.2017 and the onerous task was given to the 3 Member SIT which was headed by Mr.SiddharthChattopadhyaya. The report was then to be submitted to this Court regarding the outcome of the investigation.

44. A perusal of the first report submitted on 30.01.2018 would go on to show that the opening paragraphs of the same mentions the factum of the SIT being constituted with the direction to investigate the allegations of complicity of Sr.Superintendent of Police, Moga, Raj Jit Singh in respect of his alleged association with Inderjit Singh (ORP) Inspector emanating out of FIR No.1 dated 12.06.2017 lodged at Police Station Special Task Force at SAS Nagar. The report would also go on to show that various statements were recorded of the concerned persons and both the police officials under the cloud were examined and their statements were recorded. The SIT came to the conclusion that serious allegations of criminal misconduct on the part of Inspector (ORP) Inderjit Singh with the said official on account of the fact that he had got him posted in plump stations including Tarn Taran arose and he had asked for his posting at the districts he was posted both at Tarn Taran and Hoshiarpur. The fact that he had recommended him for double promotion were various other factors which led the SIT also to look into the property returns of Raj Jit Singh and opined upon them. Resultantly, it came to the conclusion that the investigation of the case was very complex and time consuming and it was conducting investigation as per the procedure laid

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down on day-to-day basis and the reports were signed by all the three officers.

45. Similarly, the second report dated 15.03.2018 was also framed in the same manner. The modus operandi was also examined of Inderjit Singh (ORP) Inspector in detail and it had been noticed that he had been able to get out of trouble in all departmental proceedings and it was only in one that his service was forfeited and he was getting plum posting in various districts since 1993 and the SIT opined that he was enjoying the patronage of some senior officers. Resultantly, it came to the opinion that the criminal activities of Inderjit Singh (ORP) Inspector in collusion with other police officials were to be gone into with the assistance from the various other departments i.e. Directorate of Enforcement, Income Tax Department etc. At no point of time the investigation by the team of the said officers had weared-off the course as directed by this Court.

46. Apparently, before the third report could be submitted 1 ½ months later, FIR No.1 dated 12.02.2015 was lodged at Police Station, Amritsar and the questionnaire dated 03.04.2018 came to be served upon the Head of the SIT on account of the suicide committed by Inderpreet Singh Chadha who had left behind various notes in which the name of the Head of the SIT also figured as has been pointed out from the final report of the said FIR. Mr.Chattopadhyaya apprehending that he was being implicated had sought the protection of this Court on account of the fact that he had earned the confidence of this Court and had been appointed as the Head of the SIT. This Court was unanimous enough at that point of time keeping in view the averments made in the application that he was being made a scape-goat at the instance of Shri Suresh Arora and Shri Dinkar Gupta, therefore the Court granted the benefit of stay of the

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investigation qua the Head of the SIT on 06.04.2018. Apparently, the matter was reported by the Press leading to one of the members writing to the Addl.Chief Secretary on 20.04.2018 that this Court had set up a three member SIT and 2 status reports had already been filed and a hearing had taken place on 06.04.2018 and the filing of the said application had never been brought to the notice of the other members of the SIT and they had only come to know from social media and newspaper reports on the next day. Mr. Prabodh Kumar, IPS communication to the Addl.Chief Secretary had stated that at no point of time the Government or any other senior police officer had interfered with the investigation conducted by the SIT and there was no occasion on which the Head of the SIT had brought to the notice of the other 2 Members that he was being pressurized by any senior officer or by any other person. The communication dated 20.04.2018 reads as under:

“Subject: Investigation by SIT appointed by Hon’ble Punjab and Haryana High Court vide its order dated 15.12.2017.

Memo

Please refer to the discussion with the undersigned in your chamber on 19.04.2018, regarding the subject cited above.

2. It is stated that on 15.12.2017, Hon’ble Punjab and Haryana High Court had ordered setting up of a three-member SIT, comprising of the following members:-

- i. Mr.SiddharthChattopadhyaya, IPS, DGP, HRD
- ii. Mr. Prabodh Kumar, IPS, ADGP-cum-Director, Bureau of Investigation,
- iii. Mr.Kunwar Vijay Pratap Singh, IPS, IGP

3. It is further stated, that in compliance with the above mentioned court order, the SIT submitted two status Reports to Hon’ble High Court on 01.02.2018 and 15.03.2018 respectively. After the submission of the second Status Reprot, nor formal or informal meetings of SIT, in furtherance of Investigation entrusted by Hon’ble Punjab and Haryana High Court, took place till 5.4.2018

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filed by Mr. Chattopadhyaya, SIT Head, which came up for hearing on 6.4.2018. It is submitted that the subject matter and the contents the above mentioned CM never came up for discussion among the SIT members, who came to know of this CM and its contents, as well as the Court proceedings on the matter, from social media posts on 6.4.2018 and newspaper reports on 7.4.2018.

4. It is pertinent to point out here that at no point in time has the government, or any other senior civil/police officer influenced or interfered with the investigation being conducted by the SIT, in any manner. During the meeting of the SIT, there was no occasion on which Sh.SidharathChattopadhyaya, IPS, DGP, HRD brought to notice of the other two members of the SIT that he (Sh. Chattopadhyaya) is being pressurized by any senior officer or by any other person, so as to influence the outcome of the investigation being conducted by the SIT.

For your consideration and necessary action please.

Sd/-

(Prabodh Kumar, IPS)

Director,

Bureau of Investigation,

Punjab, Chandigarh”

47. Apparently, on 30.04.2018 also, both the other members had disassociated themselves with the investigation which was being conducted into certain aspects which were not relevant to the matter entrusted by this Court and the other members had objected that no consultation was being done with them by the Head of the SIT. Letter was also addressed to the Addl.Chief Secretary, Government of Punjab. Relevant portion of the letter dated 30.04.2018 reads as under:

“Please refer to the D.O. letter No.713 (A) dated 26.04.2018, addressed by Shri Sahil Sharma, Dy.Advocate General, Punjab to Shri Nirmal Jit Singh Kalsi, IAS, Additional Chief Secretary to Govt. of Punjab, Department of Home Affairs and Justice, Punjab, regarding the subject cited above.

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2. A copy of this D.O. letter of Shri Sahil Sharma was further forwarded by ACS/Home to the undersigned members of SIT vide his office memo No. E-9833 dated 30.04.2018.

3. During the proceedings of the SIT on 30.04.2018, it transpired that investigation into certain aspects, which were not relevant the matter entrusted by the Hon'ble High Court to the SIT, was being conducted by Shri Siddharth Chattopadhyaya, IPS, DGP, HRD, Punjab, the third member of the SIT, without the prior concurrence of the SIT. Certain letters have been issued by Shri Siddharth Chattopadhyaya, designating himself as "Chairman SIT", despite the fact that no consultation was held with the undersigned two members of SIT before issuing such letters. These letters have been issued to various departments of State Govt., Central Govt., and other agencies for the purposes of summoning of record, seeking attendance of witness, collection of CDRs or cell phones, etc.

4. In the light of the above, the undersigned member of SIT have disassociated themselves whatever investigation is being conducted by Sh. Sidharath Chattopadhyaya, IPS in this manner and this fact has duly been communicated to Sh. Chattopadhyaya by us.

5. Further appropriate action, as deemed fit may kindly be taken in this regard.

Yours Sincerely

Sd/-

Prabodh Kumar

Director,

BOI, PB,

(Member SIT)

Sd/-

Kunwar Vijay Partap, IPS

IGP/Crime-IV, PB, Chg.

(Member SIT)"

Chandigarh

48. The third report which was eventually filed on 08.05.2018 again stressed on the fact that the complicity of Raj Jit Singh was to be gone into of his alleged association with Inderjit Singh (ORP) Inspector

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and the resultant conclusion in the report signed by all the three officers has already been reproduced in para no.40.

49. Thus, apparently, the focus of the investigation and the mandate at that point of time was only regarding the complicity of Inderjit Singh with Raj Jit Singh and not beyond that. The conclusion also which has been arrived at in the final report by all the three officers is that if there is any similar complicity of Inderjit Singh with other officers it can be a subject matter of separate enquiry/investigation. Thus, the three member SIT never conducted any investigation jointly regarding the task beyond what had been entrusted to it and therefore, the conclusion which was arrived at by the Head of the SIT in his separate report can safely be judged as one beyond the mandate given by this Court.

50. We have gone through the sealed report and the same is still lying in the sealed cover with this Court. Apparently the focus of the head of SIT shifted to a house which was being constructed in Sector 15, Chandigarh which happens to be in the name of the sister-in-law of Mr.Dinkar Gupta, sale deed of which was registered on 15.03.2016. Apparently, on account of some police officials being posted there, the Head of the SIT started looking at the construction of the said house with suspicious eyes by trying to take up the issue that the purchase of the house was a clandestine deal and its construction had been done which was routed through Raj Jit Singh. In such circumstances, it has been rightly objected to by the counsel appearing for Mr.Dinkar Gupta and Mr.Suresh Arora. The stress upon the role of Mr.Suresh Arora, the earlier DGP was also made by the Head of the SIT on account of the fact that Inderjit Singh was not being moved out and being transferred out of any

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sensitive place of posting or public dealing and there was alleged inaction on his part.

51. Mr.Cheema has already also stressed upon the fact that there was a reason with the Head of the SIT as apparently the race was also on for the post of the DGP which was falling vacant on 13.09.2018. It has already been noticed above in the factual matrix in para nos.33 & 34 that there was a bitter service litigation which was initiated subsequently in which Mr.Suresh Arora was also arrayed as respondent. The matter had eventually travelled to the Apex Court wherein also the State was constrained to file an affidavit against the Head of the SIT as has come forth. The affidavit which was also filed by the Secretary, Department of Home Affairs & Justice at that point of time had averred that the Head of the SIT had gone beyond the mandate given by this Court and the affidavit and report filed by him was unilateral. The fact and the allegation of benami house had been enquired into and the conclusion arrived at was that the property in question was not benami and the source of income for purchase and construction had been established. The aspect of Shri Suresh Arora also regarding the fact that he was a Member of the Empanelment Committee which had been objected to has also been upheld by the Apex Court in Mustafa Mohd. (supra) in which the argument made on behalf of the Head of the SIT had been rejected. These factors would go on to further cement the opinion of this Court that reliance upon the third report submitted in individual capacity is not warranted for and therefore, the fact of the said report to be made public and not acted upon needs to be approved.

52. Reliance can be placed upon judgment passed in **Vidya Vikas Mandal Vs. Education Officer (2007) 11 SCC 352** where only one

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member had submitted his report who had been nominated by the Management and the other two members nominated by the employees and independent members had not submitted their reports. Resultantly, the order passed by the Management based on the reports submitted by the single member of the Committee was set aside.

53. Similarly, reliance can be placed upon the judgment in **P.M.Ruikar Trust Yavatmal Vs. PunjaramDharmajiWagdarker& another, 2016 (2) Mh.L.J 783**, a Division Bench judgment of the Bombay High Court pertaining to the Nagpur Bench wherein it was held the enquiry report had been signed by only two members and not by all the three members and therefore, the report would be vitiated.

54. The Apex Court in **Ms.Mayawati Vs. Union of India, 2018 (8) SCC 106** wherein the Apex Court had issued directions to lodge an FIR with respect to Taj Corridor Project case and the disproportionate assets case had also been initiated against the said petitioner therein and stand taken was that investigation was done in both cases as per the directions of the Court which was not accepted and was held to be without jurisdiction.

55. In **M.C.Mehta Vs. Union of India & others, 2020 SCC Online SC 648**, the argument was accepted that the Court had never appointed the Monitoring Committee to look into the matter concerning each and every residential building on private land as it had never been authorized by the Court. The specific mandate had only been to adjudicate the misuse of the residential properties for commercial use and thereafter regarding the encroachment on the public land and unauthorized colonies. Accordingly, the statutory powers could not be usurped at the hands of the Monitoring Committee and they could not act beyond authority conferred

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upon it by the Court and the sealing of residential premises which were not being misused for commercial purposes could not have been done qua the direction for demolition of those residential properties.

56. Similarly, in **Gurdeep Singh & others Vs. State of Punjab & others, 2021 (3) RCR (Criminal) 246** wherein learned Single Judge of this Court held that once the SIT was constituted under the Chairmanship of a senior IPS Officer by name, his transfer could not be a reason for change of the composition of SIT as the SIT members were nominated by name and their official designation. The said members having not signed on the challan thus had never authorized the other member to file the same on behalf of the SIT and the same was held not to be justifiable.

57. The argument raised by Mr.Kartikeya that the proposed accused is not to be heard and that the principles of natural justice do not apply to him cannot be accepted in the facts and circumstances. It is not that this Court is arraying any person as an accused and only the report had been called from the SIT. At an earlier point of time, the benefit had been extended to Raj Jit Singh and on his request the composition of the investigating team had been changed since this Court was monitoring the proceedings. It was only on account of the directions issued by this Court that the SIT was set up and therefore, it is only this Court that would have jurisdiction to examine whether the report of the SIT is to be taken into consideration or the report of one individual just because he is the head of the SIT and therefore, the judgments relied upon in Ramveer Upadhyay (supra) and Rajesh Aggarwal (supra) by Mr.Kartikeya would not be applicable in the peculiar facts and circumstances.

58. Thus, keeping in view the above, question no.1 is accordingly answered in favour of the objectors that the report of the Head of the SIT

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in his individual capacity is not to be taken into consideration. Keeping in view the specific orders passed in that context and since it was a three member Committee and it was not within the domain of a single member to digress from his duties for the apparent reasons which have been highlighted by the counsels for the objectors. Thus, the report shall continue to remain sealed and be kept with Registrar (Judicial) as a part of the record.

59. Needless to say that since in the report dated 08.05.2018, the three member SIT had held that the posting of Inderjit Singh with other officers would be a subject matter of separate enquiry and investigation, we are of the considered opinion that it would be open for the State and the STF which had been constituted by the notification to go into the said issue as it is not for this Court to restrict the investigation in any manner in case there is sufficient proof of any complicity of other police officials with Inderjit Singh (ORP) Inspector and Raj Jit Singh. The sole focus of this Court all along has been that the drug menace in the State of Punjab should be reduced to a minimum and steps should be taken to obliterate the drug trade and keeping in view the money factor, the links between the police officers and smugglers and their complicity with each other should be nipped in the bud which was the basic purpose and the same cannot be and is not being deviated from. It is the right of the investigating agency to arrive at a conclusion and thus, it is left open to the STF to go into any such complicity which it might stumble upon in the course of its investigation and the role it has already been assigned.

60. Keeping in view the fact that the reports were submitted way-back, we are also of the view that the stay granted in favour of Mr.Chattopadhyaya at that point of time on 06.04.2018 was only an

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interim measure adopted due to the impression given to the Co-ordinate Bench that he was being hounded at that point of time by his seniors. Much water has now flown since the stay was granted and the fact that two of the officers have already superannuated and the third is no longer stationed in the State of Punjab. We therefore, accept the argument of Mr.Dhuriwala that the stay of the investigation cannot continue in perpetuity in FIR No.1 dated 12.02.2015 lodged at Police Station Airport, Amritsar since on account of an interim order, the State has not completed the investigation and filed the final report qua the Head of the SIT. Resultantly we leave the said issue open for the Head of the SIT to seek his legal redressal if any regarding challenge to his implication in the said FIR, in accordance with law.

Findings on Question no.2 :-

(ii) Further course of action for the States to proceed and whether this Court is to continue monitoring the same since already over a decade has passed and precious judicial time has been consumed as noticed in the preceding paras?

61. Mr.Gaurav Mohunta, another Amicus Curiae appointed has brought to our notice another judgment by the Co-ordinate Bench in **Baljinder Singh Vs. State of Punjab, 2019 RCR (Crl.) 871** wherein a slew of directions had been issued and it was held that there was menace of drugs in the State of Punjab. He, accordingly, submitted that vide order dated 22.03.2016, various issues had been framed regarding the De-addiction and Rehabilitation Management/Authorities and what would be the status at the district and sub-divisional level and whether it should be run by the private agencies or there should be joint venture of said NGO's,

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individual/societies and its credentials brought about and a dedicated fund should be created for rehabilitation. It was also pointed out that the Punjab Substance Use Disorder Treatment and Counseling and Rehabilitation Centres Rules, 2011 had been amended on 28.08.2020 in furtherance of the suggestions and directions of this Court and there should be such centres available for treating both indoor and outdoor patients and facilities and to look for the de-addiction and rehabilitation of addicts and the minimum standard had been prescribed for in the said rules.

62. It has rightly been pointed out that the abuse of drugs firstly affects the younger generation and the initiation is also done at one point of time out of peerage pressure arising out of studying in educational institutions and due to easy availability of time. In such circumstances, it is for the Education Department to ensure that the syllabus provides for the harms of the usage of drugs which could be incorporated in the early years of education to students so that before their initiation they are well versed and educated as to the wrong doing that they would be indulging in if they experiment with drugs. Resultantly, it is for the Education Department to make documentaries and ask students to attend seminars so that interaction is also done with people who had undergone the problem of drug addiction undergoing rehabilitation and showing inter se the students the affect of drug menace and the dangers of getting addicted to the same, the problems of relapse and getting back to usage of drugs. Another aspect which the Ministry of Social Justice and Empowerment should act upon as the phenomenon prevalent is that initially there is a weaning away from drugs to the temptation to fall back to the addiction is well known and therefore, after treatment services provided in the de-addiction centres has to be of a high standard. The pleadings of the State also in the connected matters

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would go on to show that the State is also conscious of the fact that private de-addiction centres do not provide for such trained counselors who are looking after the addicts and it is more of a de-addiction done by force rather than by counseling which are the aspects to be looked into by the competent authorities. The counseling services provided by the Indian Red Cross Societies and private registered societies should be by trained individuals who have undergone courses which would also sensitize them regarding their responsibilities so that they can treat the patients in a humane manner by adopting mechanism which is well structured. Forcing of the addicts only on account of the fact that they have been left at the centres by their family members in order to de-addict them to ensure that they do not come in contact with the habitual suppliers and peers is not the only methodology. The duration of treatment which is rendered also has to be unified to the extent of the problem faced by patients and the introspection should be done regarding this aspect as to what level the patient requires treatment and for how long. The infrastructure also given to the person to be treated can be modulated to the manner in the background the patient comes from and the earning capacity of the family, in case the patients are in a better position to foot higher amounts the facilities should also be upgraded to that extent as it is easier for such patients to cope with the stay in such de-addiction centres since they are used to certain standard of living so that only on account of the poor conditions they do not opt to stay away from the treatment. The basic amenities is the responsibility of the State since treatment can take substantial period and can be of long duration and efforts should be made to ease the sufferings of the patients and de-addiction should not be treated as a taboo as this problem can inflict any person or from any strata of

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society and should be treated as more of a mental health issue. The addict should also be encouraged to share their problems and experiences and ask to sit around tables to discuss such issues along with the family members so that the counselors can identify what the problems are arising out of commonality of discussion to give further suggestion as to how the patients are to be treated and what steps would suffice. The de-addiction centres should be advertized with the aid of a National Helpline so that people are ready to reach out and make use of the facilities rather than treat the issue of drug abuse or usage as a social stigma.

63. The National Legal Services Authorities has created a scheme under the aegis of Legal Services to the Victims of Drug Abuse and the Eradication of Drug Menace Scheme, 2015. Resultantly, we are of the considered opinion that all the three State Legal Services Authorities with the help of District Legal Services Authorities should also work on the said scheme regarding raising of awareness by collaborating Government agencies/NGOs to prevent drug abuse and to help in de-addiction by promoting community involvement and education on drug abuse prevention. This can be done by conducting rallies, walkathons, workshops and seminars in coordination with the health department and other stakeholders and arranging counseling sessions to individuals struggling with drug abuse through legal aid clinics. The awareness workshops could be organized both in schools and colleges and Community Centres and by distributing pamphlets, brochures and other educational materials. The rehabilitation centres could be associated for rehabilitation supported by hospitals and NGOs to facilitate access to de-addiction programs and medical treatment and assist victims in navigating the legal aspects of entering rehabilitation programs.

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64. A perusal of the judgment in Baljinder Singh's case (supra) would go on to show that while dealing with the two criminal appeals wherein the appellants had been sentenced by the Special Court, Patiala for a period of 12 years and to pay a fine of Rs.2 lakhs on account of the fact that there was a recovery of 7 bags containing poppy husk each weighing 34 kgs. which had been carried in a police vehicle. Resultantly, while noticing the duty of the Courts that justice is done between the prosecutor and the person prosecuted and the Court is not to act as a tape-recorder and its duty is to render justice. The issue of the menace of drugs was also taken into consideration and it was noticed that the number of persons arrested in the past 20 months which was 25,579 from whom various types of contraband had been recovered pertaining to 21,430 cases during the said period. The fact that there were more than 63,000 drug addicts being treated in Outpatient Opioid Assisted Treatment (OOAT) clinics and 3 lakhs addicts had been treated in government and private de-addictive/rehabilitation centres, led to the direction that the focus of the entire police force should be to catch hold of the kingpins and to bring them to justice. Such kind of persons were also liable to be booked under the provisions of the Prevention of Money Laundering Act, 2002 to uproot this menace from the society and directions were given to lodge FIRs under Section 27A of the NDPS Act which provides for punishment to the persons who indulge in financing directly or indirectly in any of the activities referred to pertaining to commercial quantity and harbor any person engaged in such kind of activities wherein punishment is provided to be not less than 10 years and to be extended upto 20 years with a fine of Rs.1 lakh with the purpose to reduce the menace of drugs.

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65. Reliance was placed upon the directions issued by the Delhi High Court in WPCRL No.2401 of 2017 titled *Aasha Vs. State Government of N.C.T. of Delhi & another* it was noticed that directions have been issued to the Delhi Police to have a control over the supply chain. It was also noticed that intravenous drug use had led to HIV/AIDS and the fact that the peddlers were the final link in the chain from the manufacturer to the addicts and a strategy was required to handle them. We are of the considered opinion that the directions which were issued are very comprehensive and overlapping as to what is the subject matter before this Court and therefore, the same are reproduced below:

“46. However before parting with the judgment, we issue following mandatory directions to the State of Punjab to eradicate the menace of drugs in the State of Punjab including on the analogy of the directions issued by the Hon'ble Delhi High Court in the case WPCRL No.2401 of 2017, in the case of [Aasha vs. State Government of N.C.T. of Delhi and another](#):-

1. The State Government is directed to launch special awareness drives to make the people aware of the ill-effects of drugs on the society. The Deputy Commissioner of the district shall be the Nodal Officer to make the citizens aware of the ill-effects of the drugs and controlling the same. The State Government shall make sufficient provisions for awareness drives through electronic media, print media, internet, radio television etc.

2. The State Government is directed to provide latest kits to the Investigating Officers to investigate the matters under the [Opium Act](#), [NDPS Act](#) and other allied Acts and also to hold refresher course periodically to apprise the police personnel the procedure to be adopted while conducting investigation under the [NDPS Act](#). The State of Punjab is directed to issue direction to the police department that complainant should not be I.O. to obviate bias. (After keeping in mind the observations made by the Supreme

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Court in Mukesh Singh Vs. State (Narcotic Branch of Delhi), 2020 (3) RCR (Criminal) 595 (Addition is ours’).

3. The State Government through the Director General of Police is directed to register cases against the kingpins under the [Prevention of Money Laundering Act, 2002](#) at the time of lodging the FIR under the [NDPS Act](#) and [Opium Act](#) and also, if necessary, by attaching their properties provisionally relating to supply of poppy straw, coca plant and coca leaves, prepared opium, opium poppy and opium, opium by cultivator, cannabis plant and cannabis, manufactured drugs and preparation and psychotropic substances including artificial drugs etc.

4. Since the drugs menace has attained alarming proportion, the State Government is directed to establish Rehabilitation Centers in each district of the State within a period of six months from today. The rehabilitation centers shall provide all the basic necessities to the inmates including boarding, lodging, counseling etc.

5. The State Government is directed to appoint one Psychiatrist for counseling in each Rehabilitation Center.

The Counselor appointed in rehabilitation center shall also visit all the schools falling in his jurisdiction advising the students about the ill-effects of drugs.

6. All the educational institutions i.e. government run, government aided, private schools, minority institutions, are directed to appoint the senior-most teacher as the Nodal Officer to counsel the students on every Friday of the month about the ill-effects of drugs.

In case, he finds any drugs abuse or symptoms, he shall be at liberty to summon the parents of students. The parents will be sensitized against the drugs abuse in parent-teacher meetings.

7. The State Government is directed to ensure to post one plain-clothes policeman from 8 AM to 6 PM around all the educational institutions to nab the drugs peddlers and kingpins. The local intelligence units are directed to keep a close watch on the shops including Dhabas, tuck shops, Khokas, tea stalls to ensure that the owners thereof are not permitted to indulge in the sale of drugs etc.

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8. The Drugs Inspector while raiding the factories, industries, medical shops shall be accompanied by a person not below the rank of the Assistant Commissioner of Police including the Gazetted Officer from the Food and Supplies Department.

9. The Assistant Commissioner of Police of the concerned district shall personally monitor all the cases registered under the [Opium Act](#) and the [NDPS Act](#), 1985 to plug the loopholes during the course of enquiry and investigation to increase the conviction rate.

10. The Executive Magistrates and the Gazetted officers throughout the State shall be informed about their duties to be discharged under the [NDPS Act](#) more particularly, under [Section 50](#) and the latest law laid down by the Hon'ble Supreme Court of India and by this Court from time to time.

11. The Police Officers shall ensure that no minor is served any drugs, alcoholic beverages in any medical shops, bars, restaurants and through vend. No vend shall supply/sell the liquor to any minor. In the eventuality of liquor being supplied/sold to a minor, the licence issued for bar/vend shall be cancelled after putting them to notice. This direction shall be complied with by the police force as well as by the Excise Department. The concerned Assistant Commissioner of Police shall visit every medical shop at least within 24 hours to check the supply of drugs to any minor.

12. The Director General of Police, State of Punjab, is directed to revamp, restructure strengthen special task force.

13. The District Narcotics Cells constituted by the State of Punjab shall immediately undertake the following tasks:-

i). Each Anti Narcotics Cell is directed to identify such area in the district in which there are complaints of sale of drugs or where the drugs addicts are found operating based on these information, the local police shall immediately take necessary steps to bust/apprehend such peddlers who are active in drugs trafficking.

ii). As a further action, such potential suppliers shall also be identified by Anti Narcotics Cell as well as local police and action as per law should be taken against them.

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iii). The Anti Narcotic Cell shall take action against the abettors and conspirators, aiding the sale of drugs as per [Section 29](#) of the NDPS Act.

iv). Each Police station throughout State of Punjab shall prepare database/record of all individuals, who were previously involved in [NDPS Act](#) cases or have pending cases registered against them under [NDPS Act](#) and requisite surveillance will be undertaken qua on them so that substantive as well as preventive actions can be taken against them.

v). The Director, Education is directed to provide the list of vulnerable Government schools, Government aided Schools, Public Schools and Minority Schools for monitoring and curbing availability and peddling the drugs and narcotics substances among school going children to the police authorities. Local Police shall take proactive and ensure Zero Tolerance on this issue. All out efforts shall be made to identify such elements and in case any peddler is identified, immediate action shall be taken against him.

vi). The Anti Narcotic Cell shall take action against unscrupulous elements who are involved in sale of Pharmaceutical product without prescription which is to be used as a narcotics substance.

vii). There shall be regular training for capacity building and improving the investigating as well as intelligence collection skills of the investigating officer with regard to detection and investigation of [NDPS Act](#) related cases.

viii). The emphasis shall also be on the public schools. The Director Higher Education and Director School Education shall also visit the public schools. The free access shall be given to the Management to the School to the high ranking officers.

14. The State Government is directed to increase public awareness in the society. The Police shall be sensitized qua street peddlers. The Police shall be trained to deal with peddlers.

15. The State Government is directed to develop special, mobile, anti-peddling squads of police with jurisdiction of all over the cities and adjoining areas.

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16. The State Government through the Secretary, Education is directed to include a mandatory and comprehensive chapter on drug abuse and illicit trafficking and its socio-economic cost to self, society and the country in the syllabus for 10+1 and 10+2 students.

17. The local police is directed to pay special attention to areas surrounding schools including Government schools, Government aided Schools, Public Schools and Minority Schools, colleges, Universities and coaching Centres in their efforts to tackle drug peddlers.

18. The School Management, Principals and Teachers shall be encouraged sensitized to look out for peddlers in their vicinity and report them to police immediately.

19. All the schools throughout of State Government including Government, Government aided, minority institutions, public schools, Universities, colleges, Polytechnic colleges and Coaching Centres are directed to constitute anti-drug clubs to promote a drug free life among its members and also in the institution.

20. The State Government is also directed to sensitize the Prison staff in detecting and seizing drugs in prisons.

21. The Prisons shall be equipped with sniffer dogs to check the visitors and packages for drugs in the entry and exiting points. All the addicts within the prison including open jail shall be registered and compulsorily sent for de-addiction.

22. Every prisoner entering in the prison shall be tested for addiction and shall be de-addicted if he is found to be addicted.

23. All the prisoners who are arrested in crimes before their production in a court by an arresting agency shall be examined by the doctor and Doctor shall record their history or symptoms, if any of drug abuse. Wherever an arrested person shows signs of addiction, the police should take him to a doctor or a hospital to determine, if he is an addict, and if so, take measures to treat him.

24. There should be coordination amongst the school authorities, police authorities and hospitals/ rehabilitation centres.

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25. The State is directed to strictly enforce [Section 71](#) of the NDPS Act.”

66. Since the above-said directions were only applicable to the State of Punjab, we are of the considered opinion that since herein both the State of Haryana and the U.T.Chandigarh are party, the said directions would also apply mutatis-mutandis to the States of Haryana and U.T.Chandigarh also and they should also take appropriate steps to comply with the directions which have been reproduced above. Question No.2 is accordingly decided in the above-terms by finally disposing off CWP-20359-2013 with the above-said directions.

67. In CWP-29699-2017 titled *Barinder Dutt Vs. The State of Punjab & others*, which is tagged along with the present writ petition, directions had been sought for payment of compensation to the petitioner and his family members on account of death of their son namely Bavnish Dutt in the De-addiction Centre at the Civil Hospital, Kapurthala and the allegations have been made that he was done to death by respondent No.5 who was working as a Ward Attendant. Apparently, FIR No.103 dated 09.04.2017 was lodged under Section 306 IPC since the son of the petitioner had committed suicide by hanging himself in the bathroom from the shower.

68. The State, in its reply, has held out that the enquiry was conducted by the SDM, Kapurthala and submitted to the Deputy Commissioner, Kapurthala on 25.04.2017 and there was a ligature mark on the neck which was the result of the deceased who was suffering from suicidal tendencies hanging himself on the hook of a shower in the bathroom. It was also admitted that private-respondent, Baljinder Sharma had slapped him. It has also come on record that Sonu Katial had stated

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that respondent No.5 had slapped the deceased but the allegation of torture had been denied and a magisterial enquiry was conducted dated 25.04.2017 (Annexure R-1/5) wherein the reasoning given is of the depressed mood of the deceased from his slow walk; low speech volume; slow flow of speech; late responses; past history of girlfriend's affair and her suicide and then being jailed for 5 years. The fact that the family members were also not cooperating as the father refused to take him back at home and the mother not ready to talk to him on account of the fact that he was addicted to heroin were other grounds mentioned. As per the statement of the counselor it has come forth that due to his wife committing suicide he had gone to jail and he got addicted to drugs there. The petitioner has also averred regarding Baljinder Sharma that his son had told him that he was beaten by the said attendant. Even the report has come that the said person had slapped him.

69. We have also observed in our earlier part of the judgment that the sensitivity of the attendants has to be enhanced as to the manner in which the patients are to be treated. Apparently on account of the lack of sensitivity and the behavior the end result has been that one of the patients who was suffering on account of the various family problems has committed suicide in the bathroom of the de-addiction centre. The responsibility has to be shared by the State on account of the fact that the petitioner has lost his son though it was his hope that the de-addiction centre would cure him. Similarly, Gurdeep Singh had also stated before the Magistrate that he was told by the deceased that the said attendant had slapped him. It is in such circumstances we are of the considered opinion that the petitioner needs to be compensated for the death of his son by the State. As the deceased was stated to be only 35 years old and the father

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was admittedly working as electrician in the Old Dana Mandi at Kapurthala and it is apparent that on account of the addiction his son was suffering and it was the duty of the State as he was in their custody to ensure that even if he had suicidal tendencies, sufficient care should have been extended towards him and an extra watch should have been kept so that he would not have been successful in his attempts. Resultantly we award a sum of Rs.5 lakhs to be paid to the petitioner within 2 months from the receipt of certified copy of this order. Needless to say that we leave it open to the petitioner to claim additional compensation in accordance with law before the competent Court of jurisdiction since it was the case that the trial in the FIR would take some time. Anything said herein would not fetter any other Court to grant compensation in accordance with law.

70. In CWP-3-2017 titled *Kulwinder Singh Vs. Directorate, Health & Family Welfare, Punjab*, the prayer is for quashing of the order dated 21.12.2016 (Annexure P-7) whereby the licence of the petitioner for running the rehabilitation centre was suspended.

71. A perusal of the said order dated 21.12.2016 would go on to show that the Director of Health and Family Welfare came to the conclusion that due to the surprise checking by the State Level Team on 19.11.2016, grave violation was found in the centre. Thus the licence issued under the Punjab Substance Use Disorder Treatment/Counseling & Rehabilitation Centre Rules 2011 was suspended and directions were issued to shift all patients admitted in the centre to Government Rehabilitation Centre of the District and inform the office.

72. The stand of the State is that on account of the surprise checking the licence was suspended as teams are randomly sent to check

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the centre and on account of violation of human rights under the Act, the licence was suspended. The checking was done on the directions issued in CWP-20359-2013 and the details of the checking done at the various centres were also appended as Annexure R-1. It was also averred in the affidavit dated 21.11.2017 that inspection was done on 14.09.2016 by the Deputy Commissioner, SAS Nagar who had not recommended the grant of licence.

73. We are of the considered opinion that suspension of licence in such a cursory manner is not permissible and show cause notice should have been issued so that the principles of natural justice are complied with. The said notice should specify as to under which provision or regulation the licence is being suspended so that the petitioner who is an aggrieved person can put-forth his defence and also take the plea that he would rectify the said deficiencies if any and opportunity is to be given. The extreme step should not be taken at the first instance which has been done which go on to show the level of arbitrariness the State can resort to while using its extreme powers of suspension and cancellation. Though in the written statement it has been mentioned that no fee receipt is being provided and medicines are being administered to the patients but no document had been maintained and human rights were being violated and the patients were not allowed to meet their family members for 3 months. No quality service were being dolled out and only one counselor was available for 48 patients admitted whereas, the rule provides for one counselor for 10 patients and therefore it was pleaded that minimum standards were not being maintained.

74. We are of the considered opinion that the defence taken in the written statement is not sufficient as a detailed order is to be passed before

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directing suspension or cancellation so that the petitioner is in a position to agitate for his legal redressal and point out as to whether the order is in consonance with the statutory provisions. Therefore, keeping in view the settled principles of law laid down in **Mohinder Singh Gill & another Vs. The Chief Election Commissioner, New Delhi & others, 1978 AIR (SC) 851**, the State cannot justify its stand subsequently in the written statement. Resultantly, we are of the considered opinion that since the order has been stayed on 16.01.2017, wherein status quo was ordered to be maintained subject to the adoption of all the conditions of law prescribed for the functioning of Rehabilitation Centre of the petitioner and he had therefore not wished to pursue the matter vide order dated 28.11.2017 which request had been declined. Therefore, we quash the order dated 21.12.2016 and give liberty to the State to issue a fresh show cause notice if so required keeping in view the observations made above. Thus, we feel that the order of suspension was arbitrary and quash the same, with liberty to the respondents to issue fresh notice to the petitioner.

75. CWP-23426-2014 titled *Court On Its Own Motion Vs. State of Punjab & others*, came to the lodged on account of the application given to the Administrative Judge, Rupnagar Sessions Division at the time of inspection of the Jail at Rupnagar on the basis of which the matter was tagged along with CWP-20359-2013. Various grievances have been raised that cases have been falsely registered and persons arrested and shown as drug addicts and sent to jails and their life has been ruined.

76. The State in its reply has pointed out that the detenues were in the jail in the NDPS cases and it was alleged that the joint application had been examined by the Senior Superintendent of Police, Rupnagar and against FIRs had been lodged against 88 persons, 26 persons had cases

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registered in Rupnagar and 18 persons had been convicted and there were trials pending and the cases were under judicial scrutiny. The medicines had also been recovered under the Drugs and Cosmetic Act and the NDPS Act. It is averred that 9 bottles of Rexcof and 200 tablets of Lomotil had been recovered in the case of Gurpreet Singh and Surjit Singh while travelling on motorcycle and FIR No.83 had been lodged under Section 22 of the NDPS Act and Section 27 of the Drugs and Cosmetic Act on 24.05.2010 and the accused had been convicted by the Special Court and therefore, justification was given to show that several of the persons were still under trial. Affidavit of N.K.Ahooja, State Drugs Controller, Department of Food & Drugs Administration Haryana, Panchkula has also been placed on record where it was averred that directions had been issued for all medical shops to display the licence by way of photograph at a prominent place in their shops and the Senior Drug Control Officers and Drug Control Officers were directed to comply with the order dated 02.05.2017.

77. We are of the considered opinion that the directions at Sr.Nos.20 to 23 have already been issued by the Co-ordinate Bench regarding the duties of the State Government to sensitize the prison officials and to get sniffer dogs check the visitors in the prisons and also steps to be taken at the time of admission of the prisoners. In such circumstances, we do not feel that any further direction is to be issued in CWP-23426-2014 keeping in view the fact that similar directions had already been issued and the writ petition is disposed of, accordingly.

78. Accordingly, the main writ petition is disposed of by coming to the conclusion that the individual report of Mr.Siddharth Chattopadhyaya dated 08.05.2018 is not a report on which action is liable

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to be directed in view of the findings recorded above. The report will continue to be kept in sealed cover in safe custody of the Registrar (Judicial) as part of the record. However, the fact remains that the SIT has opined that separate investigation is to be done regarding the complicity of other police officials with Inderjit Singh (ORP) Inspector and Raj Jit Singh by the STF which has already been constituted to go into the said issues. The interim orders earlier passed whereby any such directions have been issued in furtherance for the benefit of the general public would however continue to be adhered to by the State. Other applications including the application of Mr. Shashi Kant for continuing with the security is not liable to be entertained at this stage since sufficient time has expired and it is for the State to take a call upon his security risk which is a separate exercise to be conducted and it is not for this Court to opine on. Resultantly, all other applications including impleading along with the writ petitions are also disposed of.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

15.09.2023*Naveen /Sailesh*

Whether speaking/reasoned :	Yes	
Whether Reportable :	Yes	