

# **My PILs for You**



*H.C. Arora*

My  
PILS  
for you

**H. C. Arora**

(With foreword by  
Hon'ble Justice Pritam Pal, Lokayukta, Haryana)

**Edition 2012**



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Mob: +91 80543 70531  
+91 70587 04248

On behalf of Mr. H.C. Arora.

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# Foreword

**Justice Pritam Pal**

(Former Judge of Pb. & Hr. High Court)



D.O. No. ....

**LOKAYUKTA, HARYANA,**  
New Secretariat Building,  
Sector 17, Chandigarh.  
Ph. Office-2713996

Dated 12.07.2012

## FORWARD

Shri H.C. Arora, practicing advocate, known for using the medium of PILs (Public Interest Litigation) in the Hon'ble High Court of Punjab and Haryana has given me an opportunity to go through this booklet titled "My PILs For You". In fact, this book contains a short collection of operative parts of the orders passed by the Hon'ble Benches in some of the important and genuine PILs filed by the author.

No doubt, judiciary being the sentinel of constitutional statutory rights of citizens has a special role to play in the constitutional schemes. But there are some areas of public interest or general interest, where someone has to become a petitioner for raising such important issues of public before the higher judiciary. A perusal of this book goes a long way to show that author himself in the capacity of petitioner has taken utmost interest in securing orders and directions for many helpless senior citizens, Martyrs, Freedom Fighters, Under Privileged, Bonded Labour, Prisoners' Conditions and for filling up of vacancies lying in important public institutions of the Governments of Punjab, Haryana and Union Territory, Chandigarh.

As observed in the past few years, inflow of Public Interest Litigations has increased manifold. A considerable judiciary's time is spent in dealing with such cases. So, this remedy through PIL should not be made open to an unscrupulous person, who acts in fact, with ulterior motive for someone else. Here, from the orders and directions passed by the Hon'ble High Court of Punjab and Haryana, it is apparent that Mr. Arora appearing in the capacity of petitioner in the given PILs had approached the court in a bonafide manner and for safeguarding the public interest at large, which ultimately immensely helped the cause of justice.

I believe, this book which contains the short collections of orders and directions passed by the Hon'ble Punjab and Haryana High Court will be of great help in providing the guidelines for young- lawyers, R.T.I. and social activists.

I hope and trust that the author of this booklet would continue to carry on with his this selfless mission of pursuing the genuine cause of justice.

I wish him all the success.

  
(Justice Pritam Pal)

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**Kartar Singh Sarabha**



**Sukhdev**



**Bhagat Singh**



**Rajguru**

**PART- I**

**Martyrs  
&  
Freedom Fighters**





# Free medical treatment of freedom fighters

CWP No. 12534 of 2007

(H.C. Arora vs. U.T. Administration, Chandigarh)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for a mandamus directing the Chandigarh Administration to ensure free medical aid for treatment in Government Hospitals, including the Post Graduate Institution (PGIMER), Chandigarh, to all the surviving freedom fighters living within Union Territory of Chandigarh.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“We have given our careful consideration to the submissions made at the Bar. We do not for the present wish to express any final opinion as to the entitlement of the Freedom Fighters to claim free medical facility in the State/Central Government Hospitals. All that we need say is that the Administrator of U.T. Chandigarh can examine the matter and take an appropriate decision, having regard to the facilities which are being provided to the Freedom Fighters in other parts of the country including the U.T. Pondicherry for that purpose, we are also of the opinion that the U.T. Administrator need not wait for a formal representation to come from the Freedom Fighters and the present petition filed by the petitioner may itself be treated as a representation to enable the Administration to take an appropriate action.

We, accordingly, dispose of this petition with a direction that the U.T. Administrator Chandigarh shall treat the prayers made in the writ petition as a prayer in a representation filed on behalf of the Freedom Fighters and take an appropriate decision in the matter expeditiously but not later than two months from the date, a copy of this order is provided to Ms. Puri. Needless to say that in case the U.T. Administration decides to extend the facility to the Freedom Fighters in State and Central Government Hospitals, necessary directions in that regard shall also be issued to the concerned Hospitals to avoid unnecessary harassment to those who are entitled to the facilities. No costs.

(T.S. Thakur)  
**Chief Justice**  
 (Surya Kant)  
**Judge**

September 22, 2008”

# Memorial of Martyr Sukhdev

CWP No. 4227 of 2007  
(H.C. Arora vs. State of Punjab and others)

## ISSUES RAISED IN PIL

*This PIL was filed for issuance of a Writ of Mandamus to the State of Punjab for preserving and protecting the ancestral house of Martyr Sukhdev at Naughara Area in Ludhiana as monument or by way of memorial for his supreme sacrifice for the Nation.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“Affidavit filed on behalf of State of Punjab is taken on record.

In paragraph No. 2 of the said affidavit, it has been stated that it is a historical fact that Shaheed Bhagat Singh, Raj Guru and Sukhdev Singh have made supreme sacrifices by kissing the gallows on 23<sup>rd</sup> March, 1931 for the cause of nation and to unchain the shackles of slavery. It is stated that relatives of Shaheed Sukhdev are not agreeable with proposal of the Government to donate the house. The said house is situated in Naughara Mohalla of Ludhiana city has been declared as a protected monument under “The Punjab Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1964”. However, the department of Cultural Affairs, Archaeological and Museums, Punjab decided that the house should be protected and a preliminary notification was issued vide No. 10/38/07-4TC/849, dated 17.5.2007 under Section 4(1) of the said Act inviting objections within two months regarding declaration of the said house as a protected monument. On the expiry of the said period of two months, the Government shall consider the objections and shall take an appropriate decision as per law.

In view of the affidavit filed by the State of Punjab, this petition stands disposed of, as no further directions are required to be issued.

(Vijender Jain)  
**Chief Justice**  
(Mahesh Grover)  
**Judge**

July 17, 2007”

# Memorial of Martyr Kartar Singh Sarabha

CWP No. 12654 of 2007  
(H.C. Arora vs. State of Punjab)

## ISSUES RAISED IN PIL

*This PIL was filed for issuance of appropriate directions to the Punjab Government to ensure the completion of construction of the half-built memorial of Martyr Kartar Singh Sarabha at his ancestral village-Sarabha, District Ludhiana, within a time frame by granting financial assistance towards it.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“Affidavit of Shri T.S. Chahal, Executive Engineer, Construction Division No. 1, PWD B&R Br., Ludhiana has been placed on record which says that for the construction of Saheed Kartar Singh Sarabha memorial at Village Sarabha funds to the extent of Rs.40 Lakhs were sanctioned and received from the Sub-Divisional Magistrate (West), Ludhiana.

For the purpose of the installation of statue of the Martyr and display walls, etc. funds to the tune of Rs. 58 lakhs were required, out of which Rs.24 lakhs have been received from the Director, Small Saving, Ludhiana and the utilization of the amount will be done after the decision of the specifications of the statue of the martyr.

We would like that the work be executed with all promptitude.

In view of the affidavit of the Executive Engineer, no further directions are required.

The petition is disposed of.

(Vijender Jain)  
**Chief Justice**  
(Mahesh Grover)  
**Judge**

July 2nd, 2008”

# Free air travel for freedom fighters

CWP No. 19706 of 2010  
(H.C. Arora vs Union of India)

## ISSUES RAISED IN PIL

*Petitioner had prayed for seeking intervention of the High Court to provide free air travel from Government owned companies to the surviving freedom fighters and their spouses.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“This Public Interest Litigation has been filed seeking intervention of the Court to provide free travel by Government owned companies to the surviving freedom fighters and their spouses. The number of occasions every year for which free travel should be provided has been left to the discretion of the concerned authority.

The contributions of freedom fighters need not be emphasized in the present order. What, however, needs to be mentioned is that the number of such freedom fighters would be extremely small and all of them would come within the age group of eighty which may make many of them unwilling to travel by air. In such circumstances, if such a facility is to be afforded to them, it would be a kind of honour for the freedom fighters in recognition of their services as in case of war heroes and war widows to whom free travel by air has already been provided for.

Mr. Batalvi, learned Standing Counsel for Union of India has submitted that the matter is under active consideration of the Ministry of Home Affairs, Government of India. If that be so, keeping in mind the limited jurisdiction that the Court would exercise in the present case, we find no justification for keeping this PIL pending any longer. On the contrary we are of the view that this PIL should be disposed of, at this stage, with a direction to the concerned authority in the Ministry of Home Affairs, Government of India to finalize the consideration and pass appropriate orders at an early date. The petitioner who will be provided with a free certified copy of this order may also draw the attention of the Ministry of Home Affairs, Government of India to the present order.

PIL stands disposed of in the above terms.

(Ranjan Gogoi)  
**Chief Justice**  
(Jaswant Singh)  
**Judge**

February 25th, 2011”

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# **PART –II**

# **Judicial System**



# Family Courts

**C.W.P. No. 17605 of 2005**  
**(H.C. Arora vs State of Punjab and others)**

## ISSUES RAISED IN PIL

In this PIL, the prayer was for directing States of Punjab and Haryana to set up Family Courts at all District Headquarters in view of the mandate contained in Section 3(1) (a) and 3 (1) (b) of the Family Courts Act, 1984.

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“It has been stated by the learned counsel for the respondents that the rules in question have been framed by the Governments and forwarded to the High Court. We accordingly request the Committee concerned of this Court, which is seized of the matter, to take a decision so that the Family Courts can be notified as early as possible.

The writ petition is disposed of accordingly.

May 09,2006”

(H.S. Bedi)  
**Acting Chief Justice**  
(Ranjit Singh)  
**Judge**



# Law Officers/Public Prosecutors for Special CBI Courts

CWP No. 14628 of 2005  
(H.C. Arora vs. Punjab and Haryana High Court)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed that the High Court may issue directions for assigning separate and exclusive Law Officer/Public Prosecutor for each of the 3 Special CBI Courts at Chandigarh, Ambala and Patiala.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“Pursuant to our order, dated 2.12.2005, Special Judges, CBI Courts at Patiala and Chandigarh have submitted their reports. In the report, submitted by Special Judge, CBI Court at Chandigarh, it is stated that marking of cases to different Public Prosecutors leads to unnecessary adjournments, as the Public prosecutors have to attend to cases, assigned to them in different Courts. It also becomes difficult, at times, to fix suitable dates of hearing, as invariably the dates fixed before the Special Courts clash. It has also been pointed out that since the Public prosecutors leave the courts as soon as their Court work is over, some times it becomes difficult to take up urgent applications, which are filed subsequently. In his report, Special Judge, CBI Court at Patiala, has also stated that since the Public Prosecutors of Delhi Branch have to attend the Courts all over India and the Public Prosecutors from Chandigarh Branch have to attend the Courts in the States of Punjab, Haryana and Himachal Pradesh, long adjournments have to be granted in the cases as per the availability of the Public Prosecutors. It is pointed out that appointment of permanent Public Prosecutors in the Courts would increase the efficiency and disposal of the cases by fixing shorter dates.

In view of the said reports, we would require Mr. Gupta, learned counsel for the CBI to seek instructions as to within how much time Public Prosecutors can be provided to each of the Special Courts, established to try the cases investigated by the CBI.

List for further orders on 15.2.2006.

February 1, 2006”

(D.K. Jain)  
**Chief Justice**  
(Surya Kant)  
**Judge**

\*\*\*\*\*

“In furtherance of our order, dated 1.2.2006, Mr. Rajan Gupta, learned standing counsel for the CBI, has placed before us letter dated 14.2.2006, addressed to him by the Deputy Inspector General of Police, CBI, ACR, Chandigarh. In the said communication, learned counsel has been informed that because of a large number of vacancies of Law Officers in the CBI, provision of one prosecutor in each Special Court would take at least 4 months' time.

We are not, at all, satisfied with the stand of the CBI. Once a Special Court has been established at the request of an agency, for expeditious trial of sensitive cases, the said agency is duty-bound to provide complete infrastructure for the smooth functioning of the Court to achieve the desired results. Existence of vacancies is not the concern of the Court.

Accordinging, we direct that a permanent Prosecutor shall be assigned to each of the Special Courts at Patiala, Ambala and Chandigarh. It will, however, be open for the said Prosecutors to arrange their work, insofar as miscellaneous work in other courts is concerned, but under no circumstances, this work should hamper their regular work in the Courts assigned to them. We also direct the CBI to ensure that all the vacant posts of the staff in the Special Courts are filled up expeditiously.

As regards the provision of Chambers to CBI Prosecutors, the CBI may take up the matter with the authorities concerned.

List for further orders on 19.4.2006.

To ensure compliance, a copy of the order shall be issued dasti to learned counsel for the CBI by the Bench Secretary under his signatures.

(D.K. Jain)  
**Chief Justice**  
(Surya Kant)  
**Judge**

**February 15, 2006**

\*\*\*\*\*

“The only prayer of the petitioner in this writ petition filed in public interest was that Public Prosecutors be appointed in all the Courts of Special Judges, C.B.I. Mr. Gupta, learned counsel for the respondent No. 3 has produced a communication dated 27.3.2006 to the effect that law officers have been appointed in all three Special Courts. In this situation, Mr. Arora, learned counsel for the petitioner prays that the writ petition be disposed of.

A prayer has also been made by the CBI for the provision of Chambers in the Court premises so as to facilitate the working of the Public Prosecutors. As it is not possible for us to ascertain the actual position, we direct that the District & Sessions Judge concerned will look into the matter and take such steps as may be possible.

The writ petition is disposed of.

(H.S. Bedi)  
**Acting Chief Justice**  
(Ranjit Singh)  
**Judge**

**April 24, 2006”**

# Presiding Officers of Labour Courts

CWP No. 2798 of 2006  
(H.C. Arora vs. Union of India and others)

## ISSUES RAISED IN PIL

*This petition filed in public interest prays for a mandamus striking down Sections 7 an 7-A of the Industrial Disputes Act, 1947 inasmuch as the said two provisions do not make Advocates with any length of experience at the Bar eligible to be appointed as Presiding Officer of Central Government Labour Courts/or Tribunals.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“ The above observation do prima facie lend support to Mr. Arora's submissions that in the analogy of conditions of eligibility stipulated for appointment to the Administrative Tribunal, the provisions stipulating conditions of eligibility for appointment as members of the Labour Courts and Administrative Tribunals ought to be suitably modified so as to make members of the Bar with more than 7 or 10 years of practice, eligible for such appointment. Having said so, we must hasten to add that the power to amend the statute so as to make members of the bar eligible for appointment as Members of the Labour Court or Tribunal, rests entirely on the Parliament. A writ Court is not competent to issue a mandamus either to the Parliament or to any other Legislature to emend the provisions of the statue to any particular effect. The proper course for any such change to brought about is to approach the Law Commission of India who could examine the issue in the light of observations made in S.P. Sampat Kumar's case (supra) and make suitable recommendations to the Parliament.

Mr. Arora, we must say, in fairness agreeable in making a representation to the Law Commission seeking recommendations for an amendment in the provisions contained in Sections 7 an 7-A of the Industrial Disputes Act, 1947. All that we need say is that if any such representation is made by Mr. Arora, the Law Commission may examine the feasibility of making a recommendation for a suitable amendment in the provisions.

With the above observation, this writ petition is disposed of leaving the parties to bear their own costs.

(T.S. Thakur)  
**Chief Justice**  
(Jasbir Singh)  
**Judge**

October 23, 2008”

# Additional Bench of Punjab State Consumer Commission

CWP No. 9 of 2006  
(H.C. Arora vs State of Punjab and another)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of direction to the State of Punjab to provide requisite number of Benches/Members and Staff for Punjab State Consumer Disputes Redressal Commission, in view of the pendency of cases there.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“Learned counsel for the petitioner submits that on account of having subsequent developments, this writ petition has become infructuous and can be disposed of as such.

We order accordingly.

(T.S. Thakur)  
**Chief Justice**  
(Hemant Gupta)  
**Judge**

January 14th, 2009”

# Prolonged detentions in Jails

CWP No. 3385 of 2006  
(H.C. Arora vs. State of Punjab and others)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of appropriate directions to the Punjab State Human Rights Commission, Chandigarh (respondent no.4) to periodically visit the jails and police stations within its territorial jurisdiction for preventing the incidents of prolonged detention in jails and those of torture in police stations.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“After some hearing, the petitioner, who appears in person, submits that he would be satisfied if respondent No. 4 is directed to consider expeditiously the representation made by him on 11.1.2006.

Accordingly, while dismissing the writ petition as not pressed at this juncture, we expect and hope that respondent No. 4 shall take a final decision on the representation, stated to have been made by the petitioner on 11.1.2006, as expeditiously as practicable. We are confident that the representation shall be considered in its correct perspective.

March 3, 2006’

(D.K. Jain)  
**Chief Justice**  
(Surya Kant)  
**Judge**

# Presidents of Consumer Forums

CWP No. 12921 of 2007  
(H.C. Arora vs. State of Punjab and others)

## ISSUES RAISED IN PIL

*In this PIL, the prayer was for issuance of a direction to the State of Punjab to issue appointment letters to all those persons who have been recommended by the statutory Selection Committee for appointment as Presidents/Members of various District Forums in Punjab.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“We have gone through the proceedings of the selection committee recommending the names of S/Shri B.S. Mehendiratta, K.K. Bali, P.C. Sharma and L.N. Sharma, retired District & Sessions Judges for appointment as President of Punjab State Consumer Disputes Redressal Forum in the State of Punjab. We have also gone through the communication addressed by the Secretary, Food and Supplies Department to the Advocate General, Punjab and the reasons given therein for the delay in the making of the proposed appointments. We are not satisfied with the reasons given by the Secretary, for withholding the appointments of the officers mentioned above, who have been picked out of a total panel of 24 retired judicial officers, from whom applications for appointment had been received. We are of the view that the retired officers, whose names have been recommended, ought to be appointed unless there is something very drastic that dis-entitles these officers from getting an appointment. Secretary, Food and Supplies Department shall, therefore remain present in the Court along with the relevant record relating to the proposed appointment of the selected officers to elaborate why it is not possible in expedited the appointments.

Post again on 1.10.2008.”

“Mr. H.S. Mattewal, learned Advocate General for the State of Punjab, has today filed a copy of order dated 30<sup>th</sup> September, 2008 issued by the Government appointing M/s B.S. Mehendiratta, K.K. Bali, L.N. Sharma and P.C. Sharma as President of the District Consumers Form Mohali, Barnala, Tarn Taran and Muktsar respectively. Mr. H.C. Arora submits that with the issue of the appointment order in question, nothing further survives for consideration in this petition which can be disposed of with appropriate directions that the lives of the posts against which the appointments have been made shall be extended by the Government as and when a proposal to that effect is sent by the President of the State Consumer Disputes Redressal Commission. Mr. Mattewal has no objection to that course of action. In the circumstances, therefore, we dispose of CM No. 3351 of 2007 as infructuous

with the observations that the President of State Consumer Disputes Redressal Commission shall be free to send a suitable proposal for extension of the lives of the posts against which the appointments have been made, which proposal shall then be examined and appropriate orders passed by the Government at the appropriate stage.

October 1, 2008”

(T.S. Thakur)  
**Chief Justice**  
(Surya Kant)  
**Judge**

# Punjab Law Commission

**CWP No. 2090 of 2008  
(H.C. Arora vs. State of Punjab)**

## ISSUES RAISED IN PIL

*In this PIL, the prayer made was for issuance of direction to the State of Punjab to provide adequate staff, infrastructure, space and all other facilities to the Punjab State Law Commission in consonance with the status of a retired judge of the High Court, to enable the Law Commission to discharge its functions properly as it had been made to function from one small room in the Civil Secretariat.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

In this petition, filed in public interest, the petitioner seeks a mandamus directing respondent-State of Punjab to provide adequate staff, infrastructure, space and all other facilities to the Punjab State Law Commission in consonance with the status of a retired Judge of the High Court.

Mr. Amol Rattan Singh, Addl. Advocate General, Punjab appearing for the respondent-State of Punjab has drawn our attention to an affidavit filed by Shri Ashok Sharma, Chief Engineers (Buildings), Public Works Department, Building & Roads, Punjab, Chandigarh. He submits that the requisite facilities required by the Law Commission have already been made available to it, except the requisite number of telephone connections, which according to Mr. Amol Rattan, Addl. A.G. Punjab, shall also be provided within four weeks from today. In the circumstances and keeping in view the submission made at the bar by Mr. Amol Rattan Singh, Addl. Advocate General, Punjab, no further directions are required to be issued in this petition except that necessary infrastructure required by the Law Commission shall be provided to it, to enable it to discharge its functions effectively. No costs.

(T.S. Thakur)  
**Chief Justice**  
(Surya Kant)  
**Judge**

**August 25, 2008”**



# “Consumer Forum”, Chandigarh

CWP No. 387 of 2008

(H.C. Arora vs Union Territory, Chandigarh etc.)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of appropriate directions to the Registrar of Societies, Union Territory, Chandigarh, for directing him to change the name of the respondent no. 3 (Consumer Forum, Chandigarh) so as to avoid any confusion arising out of close resemblance between the name of District Consumer Disputes Redressal Forum, Chandigarh and the name of the said Society.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“When this writ petition came up before us on November 07, 2008, we were of the view that the striking similarity between the names given to respondent No. 3-Society and District Consumer Disputes Redressal Forum established under the Consumer Protection Act was likely to create further confusion and complications unless appropriate remedial steps were taken by the authorities concerned. We had, therefore, directed Commandant D.S. Romana (Retd.), President (Complaints) of the Society and Shri H.S. Ahluwalia, Secretary General of the Forum, to remain present in Court today. Both Mr. Romana and Mr. Ahluwalia are accordingly present today before us along with their counsel Shri Atul Mahajan, who submits that the Society has already passed a resolution on November 15, 2008, to the effect that the name of the Society shall stand changed from Consumer Forum to Consumers Association, Chandigarh. Mr. Mahajan submits on the instructions of S/Shri Romana and Ahluwalia that the Society has already approached the Registrar of Societies with a request for making suitable alterations in the Memorandum and Articles of Association and the Registration Certificate granted to the Society so that the Society is described in future as a Consumers Association and not as Consumer Forum, Chandigarh. He submits that the communication sent to the PGI, Chandigarh, and referred to earlier was also not in the nature of direction to the Institute to pay the amount, referred to therein, but only in the nature of demand made on behalf of the consumer Mrs. Damyanti Chopra, who had approached the Society for intervention. It is submitted that respondent No. 3-Society shall stop using the name 'Consumer Forum Chandigarh' with immediate effect and that it shall take care not to create any confusion in adjudication of disputes by statutory Consumer Disputes Redressal Forum and the functioning of the Society.

Mr. Ahluwalia, who appears in person, submits that with the clarifications given by respondent no. 3-Society and the resolution, passed by it, and the request made to the

Registrar of the Societies, nothing further remains to be determined in these proceedings and that the same can be disposed of with a direction to the Registrar to pass appropriate orders on the request received from the respondent-Society and making suitable alterations in the relevant record as to the name of the said Society.

In the circumstances, therefore, and keeping in view the submissions made at the Bar, we dispose of this writ petition with the direction that the Registrar of Societies, respondent No. 2, shall examine the request received from respondent No. 3 for change of its name and pass appropriate orders in accordance with law expeditiously but not later than four weeks from the date a copy of this order and the application, submitted by respondent No. 3 are received by him, whichever is later. We make it clear that in case for any reason, the Registrar has not so far received the request, respondent No. 3-Society shall submit a formal request accompanied by prescribed form and fee for doing the needful to the Registrar. No costs.

(T.S. Thakur)  
**Chief Justice**  
(Jasbir Singh)  
**Judge**

**November 28, 2008”**

# Honorarium to Members of District Forums

CWP No. 6841 of 2008  
(H.C. Arora vs. State of Punjab and others)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of direction to the State Government to revise the salaries/honorarium payable to the members of Punjab State Consumer Disputes Redressal Commission as well as members of District level Consumer forums.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“Mr. Khosla, Addl. Advocate General, Punjab has today filed a copy of order dated 08.06.2009 by which the Government of Punjab have revised the honorarium payable to the members of the District Consumer Forum from Rs. 6000/- to Rs. 12000/- per month. The honorarium payable to the members of the State Consumer Commission has been similarly enhanced from Rs. 7500/- to Rs. 20000/- per month.

The petitioner who appears in person, however, submits that the State Government have not because of some inadvertence considered the recommendations made by the President of the said Commission regarding revision of honorarium payable to part time members who are being paid honorarium on per sitting basis.

Mr. Khosla, Addl. Advocate General, Punjab submits that while there is an essential difference between the members of the Forum appointed on whole time basis and those who are engaged on part time basis and are being paid on per sitting basis, the Government will have no difficulty in examining whether the sitting fee prescribed for the part time members also needs to be revised suitably.

In the circumstances, therefore, and keeping in view the order that the Government have already made, we dispose of this writ petition with the observation that the Government may examine the feasibility of revising the sitting fee admissible to part time members of the District Consumer Fora also. No costs.

A copy of the order shall be given dasti to Mr. Khosla, for compliance under the signature of the Bench Secretary.

(T.S. Thakur)  
**Chief Justice**  
(Kanwaljit Singh Ahluwalia)  
**Judge**

July 23rd, 2009”

# Members of State Consumer Commission

CWP No. 7820 of 2008  
(H.C. Arora vs. State of Punjab and others)

## ISSUES RAISED IN PIL

*This PIL was filed for issuance of direction to the Punjab Government to immediately make appointments to the two vacant posts of Members in the Punjab State Consumer Disputes Redressal Commission.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“Short affidavit on behalf of respondents No. 1 and 2 has been filed in the Court today and the same is taken on record subject to all just exceptions. Copy thereof has been furnished to the petitioner.

A perusal of the short affidavit filed on behalf of respondents No. 1 and 2 reveals that Lt. Col. Darshan Singh (Retd.) has been appointed as Whole Time Member of the Punjab State Consumer Dispute Redressal Commission vide order dated 06.08.2008. With the appointment of Lt. Col. Darshan Singh (Retd.), the instant writ petition has been rendered infructuous and is disposed of as such.

August 07,2008”

(J.S. Khehar)  
**Acting Chief Justice**  
(Ajay Kumar Mittal)  
**Judge**

# Under-trials

**CWP No. 5815 of 2008**  
**(H.C. Arora vs State of Punjab)**

## ISSUES RAISED IN PIL

*In this PIL, the prayer made was for issuance of appropriate directions to the Government of Punjab and Inspector General of Prisons, Punjab, inter-alia, to take appropriate action against the concerned Jail Superintendents for not producing 21990 Under-trial prisoners during the year ended 31<sup>st</sup> March, 2007, before the Trial Courts, as per audit report of Comptroller and Auditor General of India.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

The grievance in this writ petition primarily arises out of non-production of 21, 990 under trial prisoners from nine different jails in the Stat of Punjab on account of lack of police escorts. This, according to the petitioner, has resulted in avoidable delay in the disposal of the trials by the courts concerned. The petitioner prays for a mandamus directing respondents no. 1 and 2 to conduct an enquiry against the Superintendents of the Jails concerned.

Having heard Mr. Arora, petitioner in person and Mr. Sidhu Additional Advocate General, Punjab appearing for the respondents, we see no reason to interfere in the exercise of our public interest jurisdiction. We say so because lack of proper escorts to produce under trial prisoners before the concerned Courts is not an unknown feature. Such non production at times arises out of reasons that are unavoidable. While we may not favour non production on account of non-availability of police escorts, the real remedy lies at least in part, in providing electronic video conferencing for production of under trial prisoners for remand. We are told that such video conferencing is not presently available in the States of Punjab and Haryana. Pending availability of such a facility, the authorities shall ensure that under trial prisoners are produced in the courts concerned and non production avoided as far as possible.

With these observations, this writ petition is disposed of.

No costs.

(T.S. Thakur)  
**Chief Justice**  
 (Surya Kant)  
**Judge**

August 18th, 2008”

# Punjab Human Rights Commission

**CWP No. 14145 of 2008**  
**(H.C. Arora vs State of Punjab and another)**

## ISSUES RAISED IN PIL

*In this PIL, petitioner had prayed for issuance of appropriate directions to the Punjab Government to appoint the 5<sup>th</sup> Member of the Punjab State Human Rights Commission.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“Mr. Singh, learned Addl. Advocate General submits that Government is in the process of finalizing the name of 5<sup>th</sup> member of the Punjab Human Right Commission for appointment and that appropriate orders on the subject shall be passed after following the due process within a period of six weeks from today. That submission is recorded and the writ petition is disposed of with a direction that needful shall be done expeditiously but not later than six weeks from today.

(T.S. Thakur)  
**Chief Justice**  
(Jasbir Singh)  
**Judge**

**December 19, 2008”**

# Stamp duty

**CWP No. 19826 of 2009**  
**(H.C. Arora vs State of Punjab and others)**

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for substituting/replacing the present system of payment of registration fee/stamp duty through stamp papers, by some full-proof system like payment through demand drafts, Pay Orders, money orders, postal orders etc.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“1. The issue raised in this petition relates to system of payment of registration fee for registration of documents under the Registration Act, 1908 through stamp papers. It is stated that the Law Commission of India in its 231<sup>st</sup> report dated 5.8.2009 has observed that stamp paper scam can be avoided by changing the mode of payment and by making the stamp duty/court fee payable in round figure through demand drafts, bankers cheque, pay orders, money orders, postal orders etc. Punjab State Law Commission has also made similar recommendation as stated in letter dated 2.3.2010, Annexure P-6.

2. In affidavit dated 7.10.2010 filed on behalf of the State, it has been stated that in principle the recommendation of Law Commission has been accepted. In para 6, it has been stated that further action will be taken on receiving comments of this Court.

3. On the last date, learned counsel for the State took time to explain the said averment. Learned counsel for the State says that the State is willing to take further follow up action.

4. Accordingly, we direct the State of Punjab to take further follow up action of issuing appropriate orders within three months from the date of receipt of copy of the order.

The petition is disposed of accordingly.

(Adarsh Kumar Goel)  
**Acting Chief Justice**  
 (Ajay Kumar Mittal)  
**Judge**

July 21, 2011”

# Public Prosecutors

**CWP No. 17576 of 2009**  
**(H.C. Arora vs State of Punjab and another)**

## ISSUES RAISED IN PIL

*This PIL was filed for seeking the issuance of directions to the Punjab Government to transfer/shift the 15 Addl. District Attorneys (Legal Services) from various offices of District Legal Services Authorities to the Prosecution & Litigation Department of Government of Punjab, where there was shortage of Public Prosecutors.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“This Public Interest Litigation has been filed seeking to highlight the shortage of the Public Prosecutors in different Criminal Courts of the State of Punjab. In view of the existing shortage of the Public Prosecutors, a specific prayer has been made that 15 Addl. District Attorneys, who are now working in the office of the State Legal Services Authority, Punjab be sent to the Prosecution & Litigation Department of the Government for being posted in the Courts.

Pursuant to the order of the Court dated 18.01.2011, an additional affidavit has been filed by the Under Secretary to the Government of Punjab, Department of Home Affairs & Justice. In the said affidavit, the numbers of Courts of Sessions Judges/Addl. Sessions Judges/Fast Track Courts and Courts of Magistrates have been mentioned. The number of District Attorneys/Deputy District Attorneys/Addl. District Attorneys deployed in such Courts along with number of sanctioned posts; filled up posts and vacancies available have also been indicated. In the additional affidavit there is further mention of the steps that have been taken or in the offing for appointment including creation of the additional posts of the District Attorneys/Deputy District Attorneys/Addl. District Attorneys in different Courts.

It is the duty and obligation of the State to ensure that each Criminal Court in the State of Punjab, at whatever level, has the services of a Public Prosecutor available. The facts stated in the additional affidavit indicate that the position as on date is otherwise and there are Courts in which the services of the Public Prosecutors are not available.

Mr. Rupinder Khosla, Addl. Advocate General, Punjab has submitted that every endeavour will be made to post at least one Public Prosecutor in each Court and the State would take up the matter on an immediate basis and ensure that each Court of the State of Punjab is provide with the services of a Public Prosecutor at whatever level, i.e. District



Attorney/Deputy District Attorney/Addl. District Attorney effective from 01.04.2011.

In view of the aforesaid stand taken on behalf of the State of Punjab we are of the view that no further orders in this PIL will be called for. PIL shall accordingly disposed of in terms of the aforesaid undertaking made on behalf of the State of Punjab.

A copy of this order be given dasti to Mr. Rupinder Khosla, Addl. A.G. Punjab, under the signatures of the Bench Secretary.

(Ranjan Gogoi)

**Chief Justice**

(Augustine George Masih)

**Judge**

February 24, 2011”

# Honorarium of part time members of Punjab State Consumer Commission

COCP No. 485 of 2010  
(H.C. Arora vs. Shri Karan Avtar Singh)

## ISSUES RAISED IN PIL

*In this Contempt Petition, the petitioner had prayed that Principal Secretary to Government of Punjab, Department of Finance, be punished for not revising the honorarium of Mr. P.L. Garg, part time member of Addl. Bench of Punjab State Consumer Disputes Redressal Commission, despite directions issued in CWP No. 6841 of 2009 on 23.07.2009.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

Prayer in this petition is to punish the respondent for violation of the order dated 23.7.2009, passed in CWP No. 6814 of 2008.

Reply by way of affidavit of Sh. Karan A. Singh, IAS, Principal Secretary to Government of Punjab, Department of Finance, filed in court today, is taken on record. A perusal of the notification Annexure R-II discloses that vide notification dated 19.3.2010, the Honorarium to be paid to part time members of the Additional Bench of the Punjab State Consumer Dispute Redressal Commission, Chandigarh has been increased from Rs. 500/- to Rs. 1000/- per sitting, subject to a ceiling of Rs. 20,000/- per month.

In view of this order, the present petition has been rendered infructuous and is disposed of accordingly. However, as the sitting fee of the whole time members was enhanced from 8.6.2009, the respondent is directed to consider, altering the sitting fee for part time members of the Additional Bench, w.e.f. 8.6.2009.

March 23, 2010”

(Rajiv Bhalla)  
Judge

# Salary of Judicial Members of State Consumer Commission

CWP No. 9760 of 2010  
(H.C. Arora vs State of Punjab and others)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of appropriate directions to the Governments of Punjab and Haryana and U.T., Chandigarh, to raise the salary of the 'Judicial Members' of their respective State Consumer Disputes and Redressal Commissions to the level of salary payable to the sitting District and Sessions Judges.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“The steps taken by the States of Punjab, Haryana and U.T. of Chandigarh for revising the salary of the Members of the respective State Consumer Disputes Redressal Commissions do not seem to be based on a rationale basis. The pay structure has to be rationalized. In that regard committees of the officers consisting of Secretary, Finance; Secretary, Food and Supply, and Secretary Personnel in the States of Punjab, Haryana and Union Territory of Chandigarh may be constituted and some rationale scale of pay be finalized for the members of the State Consumer Dispute Redressal Commission(s) or the members of the Additional Bench(s) or so called Part-time Bench(s) as well as the members of the District Consumer Forums. The report of the committees may be submitted within three months.

List it again on 2.4.2012.

A copy of the order be given dasti on payment of usual charges.

(M.M. Kumar)  
**Judge**  
(Rajiv Narain Raina)  
**Judge**

December 15, 2011”

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“All these four writ petitions having raised common question of law on more or less similar facts have been heard together and are being disposed of by the present order.

The central issue in the writ petitions is regarding the remuneration payable to the members of the State Level Consumer Forums as well as the District Level Consumer Forums in the State of Punjab and Haryana and the Union Territory of Chandigarh. More particularly, the dispute has been raised regarding the remuneration being paid to other members of the State Commission and the District Consumer Forums having judicial background and the non-judicial members which is perceived by the petitioners to be having a discriminatory tilt.

According to the petitioners, a person with judicial background appointed as a Member is at par with any person so appointed who comes from a different background; yet there is a difference in the remuneration paid to such members which amounts to some kind of a discrimination besides being not conducive to good and efficient discharge of duties.

Members of the State Commission and the District Level Fora are statutory authorities appointed by the prescribed authority under the statute. The service conditions of such members are governed either by the rules framed under the statute or by administrative orders issued by the competent authority under the Act.

According to us, the controversy raised in the writ petitions is capable of being resolved by application of the elementary principles governing the exercise of the writ power under Article 226 of the Constitution of India.

Applying the said rules, we are of the opinion that the prescribed service conditions governing the functionaries of statutory bodies including payment of remuneration are essentially issues which lie in the domain of the decision making of the employer who is empowered to set down the conditions of service which also include the payment of remuneration.

The Court cannot substitute its opinion to prescribe a particular remuneration for a functionary governed by rules on the ground of inadequacy and such a grievance necessarily has to be attended to by the employer.

Having said so, we now examine the plea of discrimination raised by the petitioners. This grievance ostensibly stems from different sets of remuneration made available to the members having judicial background and others coming from other sources having no judicial experience.

We find that even though the duties performed by the members may be similar, yet there is an element of justification for prescribing difference in the remuneration being paid to them. A retired District & Sessions Judge with vast judicial experience may, in the opinion of the employer, be worthy of the benefit of an extra remuneration in comparison to his counter-part who possibly may be a social worker or a member of the public fulfilling the prescribed parameters under the Act or even an Advocate. Such differentiation in our considered view, is founded on an intelligent differentia distinguishing a retired judicial officer from others more particularly so, when the assignment given to them demands a judicial approach and thus, this discrimination to our minds does not amount to a hostile discrimination so as to enable us to hold it to be violative of Article 14 of the Constitution of India.

The averments made in the responses filed by the respondents as also the material placed before us indicates that during the pendency of the writ petitions, the remuneration payable to the members of the State Fora as also the State Commission in the States of Punjab, Haryana and Union Territory of Chandigarh have undergone an upward revision, the details of which are extracted here below:-

## “PUNJAB

1. Members of Punjab State Consumer Disputes Redressal Commission getting Rs. 30,000 per month to Rs. 35,000 per month.
2. Member of First Additional Bench getting Rs. 20,000 per month to Rs. 35,000 per month.
3. Members of District Consumer Forums getting Rs. 12,000 per month to Rs. 18,000 per month.
4. This increase will come into force w.e.f. 1.4.2012.
5. It has also been decided to review the honorarium given to the members of District Consumer Forums in every 3 years.
6. Members who are appointed from judicial side or some other Government job, they can opt for fixed remuneration or they can get last pay drawn minus pension.

## HARYANA

“The Governor of Haryana is pleased to grant the revised pay scale of Rs. 57700-1230-58130-1380-67120-1540-70290 as replacement of pre-revised pay scale of Rs. 18750-22850 per month plus other allowances as admissible to grade A officers of the Haryana Government from time to time, to the Presidents of the District Consumer Disputes Redressal Fora in the State of Haryana, with effect from 1.1.2006.

This issues with concurrence of Finance Department Conveyed by their U.O. No. 9/1/2006-4FG-II/1160 dated 30.5.2011.

The Governor of Haryana is pleased to increase the honorarium from Rs. 10,000/- (Rs. Ten thousand only) to Rs. 20,000/- (Rs. Twenty thousand only), per month of all the Members of the District Consumer Disputes Redressal Fora in the State of Haryana, with immediate effect.

This issues with concurrence of Finance Department conveyed by their U.O. No. 9/1/2006-4FG-II/1160 dated 30.5.2011

## U.T.CHANDIGARH

1. The lumpsum honorarium of full time members of State Consumer Disputes Redressal Commission be revised from Rs. 20,000/- p.m. to Rs. 35,000/-p.m. and for the full time members of District Consumer Forum the lumpsum honorarium be revised from Rs. 12,000/- to Rs. 18,000/- p.m. w.e.f. 1.4.2012 as proposed in Punjab. The further revision may be proposed after 3 years as decided by the Government of Punjab.

2. At present, members of State Consumer Disputes Redressal Commission and District Consumer Forum in U.T. Chandigarh are being paid @ Rs. 150/- per day per sitting as conveyance allowance. Representative from the State Commission pointed out that this works out in between Rs. 2700/- to Rs. 3150/- p.m. per member. It is paid out of the contingency fund and it involves a lot of paper work in office. In order to reduce the paper work and to have uniformity it is recommended that conveyance allowance be fixed as Rs. 3,000/- p.m. per member w.e.f. 1.4.2012.

3. The Committee also recommends that amount upto Rs. 1000/- p.m. may be reimbursed to members of State Commission/District Fora per month for using the

mobile phone w.e.f.1.4.2012.”

This has materially addressed the grievance of the petitioners and since we do not find any element of hostile discrimination existing between the remuneration being paid to the members of the District Fora as also the State Commission amongst the members having judicial experience and the other members, we do not find any cogent ground for making interference on this issue.

Consequently, the writ petitions are disposed of in the above said terms.

(Ranjan Gogoi)  
**Chief Justice**  
(Mahesh Grover)  
**Judge**

April 18, 2012”

# Punjab Educational Tribunal

CWP No. 1535 of 2010  
(H.C. Arora vs State of Punjab and other)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for quashing provisions contained in Section (4) (iv) of the notification dated 7.2.2008 to the extent the said provisions excluded the employees working on unaided posts in the affiliated colleges from the definition of 'employees' to be covered under the jurisdiction of the Punjab Educational Tribunal; and for issuance of direction to the State Government to bring the 'teaching as well as non-teaching employees not working on the aided posts' in the privately managed recognized schools and affiliated colleges also under the jurisdiction of the 'Punjab Educational Tribunal'*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“An affidavit has been filed by the State today, the contents of para No. 2 and 3 are reproduced as under:-

“That it is further stated that instant writ petition is based on an erroneous assumption that the Educational Tribunal has no jurisdiction to hear and decide the disputes regarding employees working on unaided posts in unaided institutions. Clause 12 of Section 7-A of the Amended Act clearly stipulates:

“(12) The Educational Tribunal shall have jurisdiction to hear all cases of dispute between the Managing Committees and the employees, as defined in this Act, and the Punjab Privately Managed Recognized Schools Employees (Security of Service) act, 1979.”

It is thus clear that Punjab Legislative Assembly has bestowed original jurisdiction upon the newly created Educational Tribunal to hear and decide all disputes in all Educational Institutions whether aided or unaided. The instant writ petition deserves to be dismissed as it is made on wrong averments.

3. That it is further stated that a combined reading of section 3,4,5 and 6 of the Punjab Affiliated Colleges (Security of Service of Employees) Act, 1974 as amended upto date has only restricted the jurisdiction of Director Colleges to hear and decide the disputes regarding dismissal of removal from service of Employees who are not working on aided posts.

However, the ambit of Punjab Educational Tribunal has not been restricted in any manner.”

In our view the said averments adequately address the issues favourably and no further grievance survives.

In view of the affidavit placed on the record by the State of Punjab, this writ petition has become infructuous ad stands disposed of as such.

(Mukul Mudgal)  
**Chief Justice**  
(Jasbir Singh)  
**Judge**

May 28, 2010”



# Women Jails

CWP No. 8108 of 2006  
(H.C. Arora vs State of Punjab and others)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for seeking the issuance of directions to the States of Punjab, Haryana and U.T., Chandigarh Administration to lodge all the women prisoners in 'Special Jails for Women' only, as mandated under the Punjab Jail Manual.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“The petitioner, who appears in person, prays for issuance of a writ of mandamus directing the respondents to lodge all the women prisoners in “Special Jails for Women” in view of Rule 6 of Chapter III and Rule 741 in Chapter XXVII of the Punjab Jail Manual.

We direct the respondents to take such measures as deemed appropriate in the matter.

The writ petition is disposed of.

May 24, 2006”

(H.S. Bedi)  
Acting Chief Justice  
(Ranjit Singh)  
Judge

# Tribunals Complex

CWP No. 7725 of 2009  
(H.C. Arora vs State of Punjab and another)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of direction to the State of Punjab to provide some suitable accommodation to the Punjab Educational Tribunal, which was operating from one small room in the Punjab Civil Secretariat at Chandigarh.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“ An affidavit on behalf of the State of Punjab, in the Court today, is taken on record. The relevant part of the same reads as follows:-

- “1) That a meeting has been held under the chairmanship of Chief Secretary Government of Punjab regarding accommodating all the Tribunals functional pertaining to the State of Punjab in a single complex at Chandigarh or Mohali and it has been decided that Greater Mohali Development Authority will allot a suitable one acre land for the said purpose. It has also been decided that Finance Department will allocate Rs.5 crore for the purchase of land. The construction of the building would be completed within one year. A D.O. Letter dated 24.2.2010 has been written by Chief Secretary to Department of Housing and Urban Development and Public Works Department (B & R) to expedite the matter.
- 2) That the government has allocated Rs.52 lakhs for salary and miscellaneous charges of tribunal in revised estimates for financial year 2009-10.
- 3) That a Toyota Corolla and Honda City car has been purchased for Chairman and Member of Tribunal respectively.”

It is has already been stated by the learned State counsel that the requisite staff shall be provided within a period of six weeks from today. Since the grievances raised in the writ petition have been readdressed by way of affidavit. We dispose of the writ petition with a direction to the learned State counsel to fix the emoluments of the officials, as per the sanction of the Government not later than four weeks from today. Accordingly, this petition stands disposed of.

(Mukul Mudgal)  
**Chief Justice**  
(Jasbir Singh)  
**Judge**

26<sup>th</sup> February, 2010”

# **PART-III**

## **Right to Information**



# **RIGHT TO INFORMATION**

# Pro-active disclosures on Government websites-I

CWP No. 8209 of 2007

(H.C. Arora vs State of Punjab and others)

## ISSUES RAISED IN PIL

*The petitioner had prayed for a mandamus directing the respondents to place all the Acts and the Rules in force in the States of Punjab, Haryana and Union Territory of Chandigarh on their respective official websites for the benefit of general public having regard to the obligations enjoined upon them under Section 4(1)(b)(v) of The Right to Information Act, 2005, (for short 'the Act').*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“Mr. Arora is satisfied with the steps taken by the respondent-State of Haryana and U.T. Administration, Chandigarh but seeks a direction against the State of Punjab for early publication of the rules, regulations, instructions and manuals in a manner that would ensure proper dissemination of the information to the public at large especially over the Internet. He submits that the writ petition could be disposed of with suitable directions so that in case the State Government fails in making the publications within the extended period granted by this Court, the matter could be dealt with in appropriate contempt proceedings.

Section 4 of the Act no doubt requires every public authority to publish within one hundred and twenty days from the date of enactment of the Act the information stipulated therein. Section 4(1)(b)(v) requires the rules, regulations, instructions, manuals and records, held by the public authority or under its control to be published. The expression 'record' as defined in Section 2(i) includes any document, manuscript and file, any microfilm, microfiche and fascimile copy of a documents, any reproduction of image or images embodied in such microfilm and any other material produced by a computer or any other device. The obligation to publish the requisite information enumerated under Section 4(1)(b) of the Act, therefore, involves a mammoth exercise at all levels. If the said exercise has not begun in the State of Punjab despite lapse of five years since the Act has been enforced, it is difficult to say how the State can accomplish of the said exercise within a period of one month which Mr. Khosla prayed for. Absence of any explanation forthcoming from the State of Punjab for its failure even to make a beginning is a clear indicative of a total failure on its part in complying with the requirements of the Act. This is not a happy situation. But so long as the Act requires, the information to be published and so long as that publication has a purpose to achieve, there is no reason muchless any justification for the State not to take appropriate steps in having the required material published. What is regrettable is that the

State has not even constituted a nucleus or set up a special or technical cell for undertaking this exercise. All that has been done, according to Mr. Khosla, is that the Government have written to the different Administrative Departments in this regard. We fail to appreciate as to how such correspondence inter-se the Administrative Departments which has been languishing for the past five years and gathering dust somewhere on some Secretary or Under-Secretary's table, would help the State in doing what it was supposed to do within 120 days. The situation is wholly unenviable for the State Government to say the least and does not reflect well on those who are supposed to ensure implementation of the Act. Having said so, we are of the view that there is no need for us to continue with these proceedings especially when Mr. Arora does not insist us on a continuous monitoring of the exercise by this Court. Suitable directions for publication of rules, regulations, instructions and manuals for the present would according to Mr. Arora serve the purpose underlying these proceedings.

In the circumstances, therefore, we dispose of this petition with a direction that while the States of Haryana and U.T. Administration, Chandigarh would keep its rules, regulations, instructions and manuals updated from time to time. The State of Punjab shall publish the rules, regulations, instructions and manuals referred to in Section 4(1) (b) (v) of the Act as early as possible but not later than six months from today. No costs.

A copy of the order shall be given dasti to Mr. Khosla for compliance under the signature of the Bench Secretary.

(T.S. Thakur)  
**Chief Justice**  
(K.S. Ahluwalia)  
**Judge**

**August 10, 2009”**

# Pro-active disclosures on Government websites-II

COCP No. 320 of 2010  
(in C.W.P. No. 8209 of 2007)

(H.C. Arora vs S.C. Aggarwal and another)

## ISSUES RAISED IN PIL

*The grievance of the petitioner was that all the Rules, Regulations, Instructions and Manuals have not been published on the websites despite directions issued by Hon'ble High Court vide its order dated 10.8.2009 to the State of Punjab, and therefore, the respondents are liable to be punished for contempt,*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“An additional affidavit dated 17.7.2010 of Sh. S.C. Aggarwal, IAS, Chief Secretary to Government of Punjab has been filed in Court wherein it has been pointed out that on 12.5.2010, in a meeting 47 Administrative Secretaries were directed to reverify the contents of RTI website pertaining to their respective departments and furnish fresh certificates of compliance. Such certificates have also been appended with the affidavit. It has also been pointed out that uploading of upto date relevant records is in a continuous process and Administrative Secretaries have been directed to make all efforts for strict compliance of Section 4 (1)(b) (v) of Right to Information Act, 2005.

Mr. Arora, the petitioner states that the website is still incomplete and many Rules and Regulations are still to be published on the websites as not more than 20-25 percent of the Rules have been published on the website. Since, the respondents have furnished a certificate of compliance of the provisions of the Act, I do not find any reason to continue with the present petition.

However, it shall be open to the petitioner to point out any deficiency in respect of any Rules and Regulations or Manuals to the concerned Administrative Secretary which have not been put on the website for immediate compliance by their respective departments.

In view of the above, the present contempt petition is dismissed.

July 19th, 2010”

(Hemant Gupta)  
Judge

# Appointment of Chief Information Commissioner

**CWP No. 19865 of 2008**  
**(H.C. Arora vs State of Punjab and another)**

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of a Writ of Mandamus to the respondents to immediately appoint the State Chief Information Commissioner in the Punjab State Information Commission, as the said Commission was without its Head (i.e., Chief Information Commissioner) since 29.7.2008*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“This petition filed in public interest seeks a mandamus directing the respondents to appoint the State Chief Information Commissioner in terms of Section 15 of the Right to Information Act, 2005. Mr. Sarin points out that although 8 Information Commissioners are holding office today, the Government has failed to appoint the State Chief Information Commissioner in terms of the provisions mentioned above. This appointment is, according to Mr. Sarin, essential because the general superintendence, direction and management of the affairs of the State Information Commission vests in the State Chief Information Commissioner and the absence of the State Chief Information Commissioner inevitably affects the due discharge of all functions that are statutorily vested in him/her.

When this petition last came up before us on 11.12.2008, Mr. Sidhu, learned Addl. Advocate General appearing for the respondent-State of Punjab had submitted that the Government was processing the papers for appointment of the Chief Information Commissioner and that given three weeks time, formal orders on the subject shall be issued. Mr. Mattewal, Advocate General, Punjab today submits that the Government is still in the process of finalizing the appointment and that it would need two month further time to do the needful.

Keeping in view the provisions of the Right to Information Act, 2005, and also the fact that the appointment of State Chief Information Commissioner is, in terms of Section 15 thereof, an essential requirement for the proper constitution of the State Information Commission, we are of the view that six weeks' time should be enough for the State to finalize the appointment. We accordingly direct that the State Government shall complete the process and finalize the appointment of the State Chief Information Commissioner and notify the same within six weeks' form today. A copy of the order of appointment of the State Chief Information Commissioner shall be placed on record by the State Government by the



next date of hearing.

Post again on 16.03.2009.

(T.S. Thakur)  
**Chief Justice**  
(Hemant Gupta)  
**Judge**

**January 16th, 2009”**

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“Mr. Mattewal, learned Advocate General, appearing for the State of Punjab, seeks some more time to enable the Government to notify the appointment of the State Chief Information Commissioner, in terms of Section 15 of the Right to Information Act, 2005. He submits that pursuant to the order earlier passed by this Court, the Government have made efforts to arrive at a consensus as to the person to be appointed against the said post, but no consensus has been arrived at, so far. He states that on or before 28.5.2009 the Government will finalize the appointment, regardless whether or not there is a consensus. We accordingly adjourn the writ petition to be posted again on 28.5.2009 with the direction that the needful shall be done by that date.

(T.S. Thakur)  
**Chief Justice**  
(Hemant Gupta)  
**Judge**

**January 16th, 2009”**

\*\*\*\*\*

“Shri Mattewal has today filed a copy of the notification dated 27.5.2009, whereby the Government have appointed Shri Ramesh Inder Singh, presently Chief Secretary to the Government of Punjab, as State Chief Information Commissioner of the Punjab State Information Commission. The notification stipulates that Shri Ramesh Inder Singh, shall enter upon his office only after he resigns from the Indian Administrative Service. Shri Mattewal states, on instructions, that Shri Ramesh Inder Singh, is submitting his resignation from the Indian Administrative Service within next four weeks and assuming the duties of the officer to which he now stands appointed.

In that view of the matter, nothing survives in the present petition, which is disposed of as infructuous.

(T.S. Thakur)  
**Chief Justice**  
(Hemant Gupta)  
**Judge**

**May 28th, 2009”**

# Working of Punjab State Information Commission

CWP No. 6272 of 2009  
(H.C. Arora vs State of Punjab and others)

## ISSUES RAISED IN PIL

*In this PIL, a prayer was made for issuance of Writ of Mandamus to the Punjab Government to provide adequate infrastructure to the Punjab State Information Commission, Chandigarh so that all the State Information Commissioners may hold their Courts daily instead for 4 or 5 hours in a week as is the practice in vogue in the Commission, and also to advise the State Information Commissioners to hold courts in their chambers also, if needed in public interest.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“This petition filed in public interest makes a grievance against what, according to the petitioner, is lethargic and unsatisfactory working of the Punjab State Information Commission causing inconvenience to those invoking the provisions of the Right to Information Act.

In response to the notice issued by this Court, the Commission has denied the allegations leveled by the petitioner in an affidavit and given details of how the Information Commission is doing its best to clear the backlog and the current cases.

Having heard Mr. Arora, we are of the opinion that no case is made out for our intervention at this stage. The proper course for Mr. Arora would be to make whatever suggestions he has to offer before the Chief Information Commissioner, to improve the process & procedures being followed by the Commission. Mr. Arora submits that a representation suggesting certain steps that need to be taken for streamlining the working of Commission has already been filed. If that be so, the Chief Information Commissioner may look into the same and take necessary remedial steps wherever necessary.

With the above observations, this writ petition is disposed off. No costs.

(T.S. Thakur)  
**Chief Justice**  
(K.S. Ahluwalia)  
**Judge**

July 20, 2009”

# Protection to Whistle Blowers

CWP No. 832 of 2010

(H.C. Arora vs State of Punjab and others)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of appropriate directions to the State Governments of Punjab, Haryana and Union Territory, Chandigarh Administration to frame some policy for protection of Whistle Blower/RTI activists.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“The States of Punjab, Haryana and U.T. Chandigarh have filed status reports revealing the ways and means to grant protection to the RTI activists or the whistle blowers.

In the status report filed by the Join Secretary Home, Chandigarh Administration the composition of the Protection Review Group (for brevity 'PRG') has been given in para 3 wherein the Inspector General of Police, U.T. Chandigarh is to head the 'PRG' and all IPS Officers in U.T., Chandigarh are to be Member with a number of other Officers.

Likewise, the State of Punjab in its reply has stated by attaching a copy of the policy (R-1) that a 'Whistle Blower'/RTI Activist if entertains any threat or danger to his/her life or liberty then he may approach the concerned District Magistrate or Commissioner of Police and the security is to be provided after enquiry within 48 hours of the receipt of the application provided it is found that the threat perception is genuine.

The State of Haryana also in the short reply filed by the Addl. Director General of Police, Law & Order, Haryana has stated that a comprehensive policy (R-1) to provide security to whistle blowers and RTI activists has been framed on 6.9.2011. However, the composition of similar procedure for grant of protection to whistle blowers and RTI activists has been disclosed.

We have heard learned counsel who have put forward their suggestions. After reflecting on the suggestions given during the hearing, we were of the tentative view that the Forums who are to decided the issue of granting protection to the 'Whistle Blowers'/RTI Activists may be broad based which may not be comprised of only the Police Authorities or other official bodies. We feel there is necessity to associate either the Members of the Bar or person like District Attorney/Advocate Generals of the States of Punjab & Haryana depending upon the level of the committee. We leave it to the concerned authorities of the State of Punjab, Haryana and U.T., Administration, Chandigarh to consider the inclusion of any such member or social activists including the females in order to avoid any misuse of power and to create adequate check and balance within the system.

List again on 27.2.2012.

Copy of the order be given to all the counsels under the signatures of the Court Secretary.

(M.M.Kumar)  
Judge  
(R.N. Raina)  
Judge

December 8th, 2011”

# My Security

**C.M.A. No. 16714 of 2011  
In CWP No. 832 of 2010  
(H.C. Arora vs State of Punjab and others)**

## ISSUES RAISED IN APPLICATION FILED IN PENDING PIL

*The prayer made in the application was for issuance of appropriate directions to the U.T. Chandigarh Administration to provide security to the applicant/petitioner at the expenses of U.T. Chandigarh Administration, during his visits to Punjab.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“It is well known that the petitioner-applicant Sh. H.C. Arora, Advocate has brought to the High Court a large number of issues involving illegalities committed by a variety of people. According to the averments made in paras 2, 3 & 4 of the application, there is threat perception highlighted. We feel that he would need protection whenever he visits Punjab. According to the averments made in the application he ordinarily visits Punjab 3 or 4 times in a year.

Mrs. Sanjay Kaushal, Sr. Standing counsel for U.T., Chandigarh states that needful shall be done. As and when the applicant-petitioner is to visit Punjab he may indicate the same to the Sr. Superintendent of Police, U.T. Chandigarh, who will make adequate arrangement for his security.

The application stands disposed of.

(M.M.Kumar)  
**Judge**  
(R.N. Raina)  
**Judge**

December 8th, 2011”

# Procedure for selection of State Information Commissioners In Punjab

CWP No. 14107 of 2011  
(H.C. Arora vs State of Punjab and others)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of appropriate directions to the States of Punjab and Haryana for laying down a fair and transparent procedure for appointment of State Information Commissioners.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“We have given our anxious consideration to the matter. Whether Rules should be framed under Section 27 of the Act or not is a matter of discretion to be exercised by the appropriate authority of the State Government and there ought to be no writ directing the State of Punjab to so act. However, taking into account the fact that every State is committed to work for the welfare of its citizens and that Rules which lay down the norms provide for an orderly conduct of government business and also provide certainty in public life, it is necessary for the State Government to consider whether in the present case the power to frame Rules under Section 27 of the Act should be exercised or not. In doing so, the State Government will definitely keep in mind that even in the absence of Rules, certain norms as stated before the Court and reproduced in the present order are prevailing which norms have been culled out by the State Government from the judicial pronouncements of the Court. In such a situation, the Rules, if framed, would only provide for an orderly conduct of business with a high degree of certainty and accuracy.

The Right to Information Act, 2005 is a vital piece of legislation prompted to provide a good and responsible governance to the citizens. The Act has proved to be an effective means of obtaining governmental information(s) as would be evident from the scores of applications and requests that are received by different authorities under the Act thereby ensuring an alert, responsive and responsible Government.

Viewed from the aforesaid perspective it would be the bounden duty of the State to examine whether the norms that are being followed today in the matter of appointment of State Information Commissioners as well as certain additional norms that the State Government may consider appropriate should find place in the form of a set of Rules or not. Such an exercise should be performed by the State so as to ensure fairness in procedure and certainty in public life. Beyond the above we do not consider any direction or observation to be justified in the facts and circumstances of the case.

The Public Interest Litigation shall stand disposed of in terms of our directions and observations and by requiring the State of Punjab to act accordingly without any delay.

(Ranjan Gogoi)  
**Chief Justice**  
(Mahesh Grover)  
**Judge**

January 9th, 2012”

# Procedure for selection of State Information Commissioners In Haryana

**“CM 4518 of 2012  
IN  
CWP 14107 of 2011**

## **ISSUES RAISED IN PIL AND DIRECTIONS ISSUED BY HON’BLE COURT**

**PRESENT:**Mr. H.C. Arora, applicant/petitioner in person.

“This application has been filed for making the order dated 9.1.2012 passed by this Court in the main writ petition i.e. CWP 14107 of 2011, effective in respect of the State of Haryana in addition to the State of Punjab. The applicant/petitioner states that the writ petition was filed seeking directions in respect of both the States. However, while passing the order dated 9.1.2012, inadvertently, the directions were not made applicable to the State of Haryana. Hence this application for clarification.

Having heard the applicant/petitioner as well as Shri Vinod S. Bhardwaj, learned Additional Advocate General, Haryana and on perusal of the pleadings contained in the writ petition, we are of the view that the omission of the State of Haryana in the order dated 9.1.2012 passed by this Court is inadvertent and the directions contained in this order would apply equally to the State of Haryana.

With the above clarification, the Civil Miscellaneous application is disposed of.

(Ranjan Gogoi)  
**Chief Justice**  
(Mahesh Grover)  
**Judge**

**April 04, 2012”**

# Prosecution Sanctions

CWP No. 13035 of 2007  
(H.C. Arora vs State of Punjab and another)

## ISSUES RAISED IN PIL

*In this writ petition, the petitioner has prayed that respondent-competent authorities be directed for taking action on the pending applications for sanction of prosecution of 87 public servants who were caught red handed while accepting bribe.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“Respondent-State of Punjab has filed an affidavit, in which it is stated that out of total 86 cases, which were earlier pending for prosecution sanction; in 20 cases prosecution is received; in 19 cases challans have been put up before the Courts of law; in two cases FIR have been quashed by the Courts; in 17 cases prosecution sanction is denied by the respective Administrative Departments; in 2 cases received back from the Administrative Department seeking comments and in 26 cases prosecution sanction is pending.

“This petition stands disposed of with a direction to the respondents to dispose of the applications for seeking sanction for prosecution in those 26 cases also, without further delay within a period of eight weeks from today.

(Vijender Jain)  
**Chief Justice**  
(Jaswant Singh)  
**Judge**

March 23, 2008”

# **PART-4**

# **Convicted Public Servants**





## Convicted Public Servants in Punjab

CWP No. 18552 of 2007  
(H.C. Arora vs State of Punjab and others)

### ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for a mandamus directing the respondents-State Government to take appropriate action for removal of all such government employees as have been convicted on the charges of corruption and as are continuing in service despite the said conviction.*

### DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“In response to the notice issued by this Court, Addl. Secretary, Vigilance Department, Government of Punjab, has filed an affidavit on 11.8.2008, inter-alia, stating that as many as 150 officials convicted for various offences for which they were charged have been dismissed from service by the Government. Another affidavit filed by Additional Secretary, Vigilance Department, Punjab on 10.11.2008 gives certain further details and states that 16 more employees have been similarly removed from service, details whereof are set out in Annexure P-2 to the said affidavit. The affidavit also refers to the directions issued and the meetings held by the Chief Secretary, Government of Punjab, in which the Chief Secretary has instructed the heads of the departments to take appropriate action in the matter.

Mr. Arora who appears in person argues that according to the statement filed by the respondents with the affidavit dated 10.11.2008, four employees appearing at Serial Nos. 11,12,13 and 15 are continuing in service, although, their conviction has not been stayed by the appellate Court. He submits that the petition could be disposed of with a suitable direction to the Government to examine the cases of all such employees including the four employees mentioned above who have been convicted and their conviction has not been stayed and to pass appropriate orders in the matter in accordance with the rules on the subject.

Mr. Amol Rattan Singh, Addl. A.G. Punjab appearing for the respondent-State of Punjab submits that the matter is being monitored at the highest level by the Chief Secretary and that dismissal of a very large number of employees who have been convicted under various offences itself shows that the State Government is not protecting any employee who has been convicted under any offence and that such employees have been removed from the service without any delay. He further states that the process of examination of such cases and passing of appropriate orders would continue under the supervision of Chief Secretary including the orders of four employees as pointed out by Mr. Arora.

In the circumstances, therefore, we consider it unnecessary to continue these proceedings on the board of this Court. The same can in our opinion be disposed of with a direction to the Chief Secretary, Government of Punjab, to periodically monitor the action against the employees who are convicted for the offences alleged against them and ensure that those who deserve to be weeded out on account of their conviction in accordance with the rules on the subject are dealt with strictly in accordance with the said rules. This would include action that may be called for against the four employees pointed out by Mr. Arora. The writ petition is accordingly disposed off with the above directions and observations leaving the parties to bear their own costs.

Pending Civil Miscellaneous accompanying the writ petition are also disposed of.

(T.S. Thakur)  
**Chief Justice**  
(Jasbir Singh)  
**Judge**

November 18, 2008”

## Convicted Public Servants in Haryana

CWP No. 11537 of 2008  
(H.C. Arora vs State of Haryana)

### ISSUES RAISED IN PIL

*In this PIL, the petitioner has prayed for a mandamus directing respondent-State of Haryana to take appropriate action against the employees who have been convicted under the provisions of Prevention of Corruption Act but are continuing in service despite the said conviction.*

### DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“In response to the notice issued by this Court, respondent-State of Haryana has filed a counter affidavit on 7.11.2008 and enclosed a list of 20 employees who have been convicted under the Prevention of Corruption Act and are working in different departments of the government of Haryana. Mr. Malik, learned Add. Advocate General appearing for the respondent-State of Haryana submits that out of 20 employees mentioned in the said statement, conviction of as many as 12 has been stayed by the Appellate Court. No action against the said employees can, therefore, be taken by the State Government on the basis of their conviction. As regards the remaining eight employees, Mr. Malik submits that although sentence of said employees has been suspended by the competent Courts, the competent authority would have no difficulty in examining their cases in terms of the provisions of relevant Rules to determine whether they need to be dismissed from services.

In the light of the statement, we consider it wholly unnecessary to continue the present proceedings on our board. All that we need say is that the competent authority in the State Government shall consider, on an objective assessment of the gravity of the charges framed against the convicted employees, whether or not the employees deserve to be removed from service on account of their conviction and having regard to the fact that their conviction has not been suspended by the Appellate Court. The needful shall be done by the competent authority expeditiously but not later than three months from today. The writ petition is accordingly disposed off with the above directions and observations leaving the parties to bear their own costs.

Copy of the order be given dasti to Mr. Malik under the signatures of Bench Secretary.

(T.S. thakur)  
**Chief Justice**  
(Jasbir Singh)  
**Judge**

November 18, 2008”

# Convicted DSP

**CWP No. 2596 of 2008**  
**(H.C. Arora vs State of Punjab and others)**

## ISSUES RAISED IN PIL

*This PIL was filed for directing the Punjab Government to take appropriate action for dismissing Sh. Pargat Singh, Deputy Superintendent of Police from service, on account of his conviction on charges of corruption.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

Mr. Arora, petitioner in person, submits that since respondent No. 4 has already been removed from service, no further directions are required to be issued in this petition which may be dismissed as withdrawn.

Learned counsel appearing for respondent no. 4, however, argues that the present writ petition was not maintainable in public interest. He further submits that the dismissal of this writ petition should not prevent respondent No. 4 from challenging the order by which he has been removed from service.

We have given our careful consideration to the submissions made by learned counsel for respondent No. 4. Since the petitioner does not wish to pursue this writ petition in the light of subsequent development, we consider it unnecessary to examine the question of its maintainability. All that we need to mention is that dismissal of this petition as infructuous shall not prevent respondent No. 4 from challenging the order of his removal in appropriate proceedings before an appropriate forum.

With the above observations, this writ petition is disposed of as infructuous. No costs.

August 13, 2008'

(T. S. Thakur)  
**Chief Justice**  
 (Surya Kant)  
**Judge**

# Convicted Superintending Engineer

CWP No. 5814 of 2008

(H.C. Arora vs Haryana State Agricultural Marketing Board)

## ISSUES RAISED IN PIL

*The petitioner had prayed for issuance of a direction to the Haryana State Agri. Board to take action against Sh. S.K. Goyal, Superintending Engineer, on account of his conviction under the Prevention of Corruption Act.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“Dismissed as having been rendered infructuous

(Vijender Jain)

**Chief Justice**

(Jaswant Singh)

**Judge**

May 15, 2008”

**NOTE:** During the pendency of the PIL, the Haryana State Agricultural Marketing Board, Panchkula passed an order dated 22.4.2008, imposing the punishment of 'dismissal from service' on Sh. S.K. Goyal, Superintending Engineer, with immediate effect

# Tainted Public Servants in Chandigarh

CWP No. 10556 of 2007

(H.C. Arora vs Union Territory, Chandigarh)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed, inter-alia, for issuance of appropriate directions to the U.T. Chandigarh Administration to conduct an enquiry into the conduct of Chief Engineer, U.T. Chandigarh Administration for revoking the suspension orders of 16 officials in different departments under him during the pendency of criminal cases against them*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“In the circumstances, therefore, we do not consider it to be a fit case where we ought to direct the competent authority to place the officials concerned under suspension once again. We say so because the power to place the officials under suspension is exercisable by the competent authority keeping in view the gravity of the offence with which the official concerned is charged, the nature of the offence and the likelihood of his repeating the act or impeding the disposal of the trial or otherwise tempering with the evidence. If upon consideration of the totality of the circumstances the competent authority takes a view that the order of suspension should be modified and the employee reinstated, we see no reason to sit in judgment over such an order or issue a mandamus directing the respondents to necessarily place the said official under suspension. Needless to say that any such order would not only interfere with the discretion of the competent authority but cause prejudice even to those against whom the relief is sought without such persons being parties to these proceedings. In the result, this writ petition is, on account of subsequent event mentioned above, rendered infructuous and is disposed of as such. We make it clear that the disposal of present writ petition shall not prevent the competent authority from reviewing the order of suspension or revocation of the same at any stage, if the circumstances otherwise warrant any such step. No costs.

(T.S. Thakur)  
**Chief Justice**  
(Hemant Gupta )  
**Judge**

March 18th, 2009”

# Convicted Revenue Officers

CWP No. 1396 of 2008  
(H.C. Arora, Advocate vs State of Punjab and others)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of appropriate directions to the State Government to review the orders of re-instatement of one Sh. Kulwant Singh, Kanoongo and one Smt. Prem Lata, Naib Tehsildar, and to take action for removing them from service since the said officials had been convicted on the charge of corruption, and were earlier removed from service, but later on were reinstated in departmental appeal.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“In view of the reply filed by the respondents, Mr. H.C. Arora, petitioner says that no further order is required in this petition as the same has been rendered infructuous.

Ordered accordingly.

(Vijender Jain)

**Chief Justice**

(Jaswant Singh)

**Judge**

**March 28, 2008** Note: The respondents filed a written statement in the Hon'ble High Court that on reconsideration, these two officers have now again been removed from service.



# Convicted Industry Promotion Officer

CWP No. 5019 of 2008  
(H.C. Arora vs State of Punjab and others)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of a Writ of Mandamus to State Government and Director, Industry and Commerce, Punjab, Chandigarh to take appropriate action for removal of Shri Inderjit Singh Tandl, Senior Industry Promotion Officer, who was convicted on charge of corruption, but still continued to be in service for the last about 4 years.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

”Mr. Amol Rattan Singh submits that respondent No. 5 has already been removed from service in consequence of his conviction for an offence under the Prevention of Corruption Act. In that view of the matter, therefore, Mr. Arora does not wish to pursue the matter any further.

Disposed of.

(T.S. Thakur)  
**Chief Justice**  
(Jasbir Singh)  
**Judge**

November 18, 2008”

# Convicted Doctors

CWP No. 2586 of 2008  
(H.C. Arora vs State of Punjab)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of appropriate direction to the State Government to remove Sh. Bhagwan Dass Mittal, Senior Medical Officer (SMO), and Shri Ashok Bhandari, Supdt., Health Department, Pb. Government, from service on account of their conviction on corruption charges.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“Dismissed as having become infructuous.

(Vijender Jain)  
**Chief Justice**  
(Jaswant Singh)  
**Judge**

May 15, 2008”

**NOTE:-** During pendency of the aforesaid Civil Writ Petition, the State Government dismissed both the convicted doctors from service.

# Murder Convict Police officials

**CWP No. 17753 of 2010**  
**(H.C. Arora vs State of Punjab and others)**

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of direction to the State Government to remove six police officials from service, since they were continuing in service despite being sentenced to life imprisonment on charges of murder.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“According to us, a person convicted for the offence of murder under Section 302 of the Indian Penal Code and sentenced to life imprisonment, notwithstanding the suspension of sentence and release of such a person on bail by the Appellate Court, is not entitled to remain in service. A person convicted for a heinous offence like murder cannot be permitted to continue in service in larger public interest and keeping in mind the social good that public service is committed to bring to the citizens.

We, therefore, direct the Director General of Police, Punjab to forthwith take necessary action in the matter against the respondents No. 4,5,6,7,9 ad 11, namely, Ravinder Kumar, DSP, Rajinder Pal Anand, DSP, Malwinder Singh, ASI, Constable Manjeet Singh, Constable Dalveer Singh and Constable Gurcharan Singh and ensure that they cease to remain in service until the appeals filed by them before the Appellate Courts against their conviction are disposed of. The Director General of Police, Punjab will take immediate action in the matter to ensure that necessary compliance orders are placed before the Court on the next date fixed. List on 21.02.2011.

A copy of this order be furnished to Mr. Rupinder Khosla, Addl. Advocate General, Punjab, for compliance, in the course of the day.

(Ranjan Gogoi)  
**Chief Justice**  
 (Augustine George Masih)  
**Judge**

February 17th, 2011”

# Convicted Police Officials

(1) CWP No. 19578 of 2011  
(H.C. Arora vs. State of Punjab)

&

(2) COCP No. 631 of 2010  
(H.C. Arora vs S.C. Aggarwal)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of appropriate directions to the State Government to take action under the rules and law for removing the large no. of convicted police officials, who are still in service in the Punjab Police. In the contempt petition, the petitioner had prayed that action under the Contempt of Courts Act be initiated against Shri S.C. Aggarwal, Chief Secretary, Punjab Government for not effectively monitoring the cases of the convicted public servants in the State of Punjab, in compliance of the directions issued by the Hon'ble High Court in CWP No. 18552 of 2007.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“On 17.11.2011, this Court has recorded in the order that the directions issued on 18.11.2008 (P-1) passed in C.W.P. No. 18552 of 2007 were being violated. The order also incorporated the undertaking of the Addl. Advocate General, Punjab recorded in the order dated 18.11.2008, a period of more than three years have been gone by and on the last date of hearing last opportunity was granted to the respondent-Chief Secretary to proceed against atleast one of the officer and one week time was given. The order of 17.11.2011 was challenged before Hon'ble Supreme Court by filling SLP and on 25.11.2011, the order of the Supreme Court was placed on record which, asked this Court to defer the hearing of the case for two weeks. In deference to the aforesaid direction of the Supreme Court, the matter was adjourned to today i.e. 14.12.2011.

On the asking of the Court, Mr. R.S. Khosla, Sr. Addl. A.G. Punjab sought time to seek instructions as to why the directions issued on 18.11.2008 (P-1) were not complied with and how much time would be required. Mr. R.S. Khosla after obtaining instructions has produced before us copies of four orders in respect of S/Shri Bhupinder Singh Khatra DSP, Sh. Avinder Bir Singh DSP, Sh. Parminder Sigh DSP and Mr. Surinder Singh Chinna DSP. According to those orders, the aforesaid officers have been placed under suspension in pursuance of their conviction under various provisions of Indian Penal Code as well as Prevention of Corruption Act. In the meanwhile their cases have been sent for approval to the Punjab

Public Service Commission. Accordingly, we direct the Public Service Commission through its Secretary to expedite the decision in this matter, it shall be decided within a period of two weeks from the date of its receipt of a copy of this order. The Punjab Public Service Commission through its Secretary is also impleaded as a party respondent.

Mr. Khosla has requested for three months time in respect of other officers. However, we do not accept the request for granting three months time because the matter is already pending for the last more than three years and it is not such a subject which would require even a month. The names of the convicted police officers/officials are with the reports and are also on the record of this Court. Action is to be initiated as per the requirement of law, rules or policy of the State, therefore, we grant again one last opportunity to present complete report with regard to the action taken in respect of all the convicted police officers/officials by 31.10.2012.

Accordingly, matter be listed for hearing on 01.02.2012.

Be shown in the urgent list.

A copy of this order be sent to Punjab Public Service Commission by the Registry within two days.

(M.M. Kumar)

**Judge**

(Rajiv Narain Raina)

**Judge**

**December 14th, 2011”**

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“In compliance of the order dated 14.12.2011, an affidavit of Shri M.S. Chhina, Assistant Inspector General of Police, Welfare and Litigation, Punjab, has been filed in the Court today, which is taken on record and a copy thereof, has been furnished to the opposite side. Along with the affidavit various lists depicting the names of the police officers and the action taken have been attached as Annexures R-5 to R-10. Annexure R-5 contains the names and other particulars in respect of four Deputy Superintendent of Polices who have been dismissed in pursuance of their conviction in criminal cases. Another list (R-6) also contains the names of 48 police officials who have been dismissed due to conviction in criminal cases. A list of 29 police officials has also been attached (R-7) whose conviction has either been stayed or suspended by the Appellate/Revisional Court or the officers who were initially convicted by the Trial Court and the Appellate Court acquitted them and, therefore, they have been retained in service (R-8). List (R-9 ) contains the names of four police officials who were convicted but have either died or retired. The last list contains the details of 22 police officers, who have been convicted but have been awarded some major punishment by keeping in view Rule 16.2(2) of the Punjab Police Rules, 1934 and the impugned instructions dated 22.5.2009 and 18.5.2010 (R-10). Accordingly, details have been furnished in respect of 121 police officials.

Mr. H.C. Arora, petitioner-in-person and Ms. Balpreet Kaur states that some time would be required to examine various lists and the action taken report by the respondents. Accordingly the matter is adjourned to 15.2.2012.

February 1, 2012”

(M.M. Kumar)  
**Judge**  
(Rajiv Narain Raina)  
**Judge**

# Remissions to rape convicts

CWP No. 3449 of 2008  
(H.C. Arora vs State of Punjab and another)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for directing the respondents to ensure that the benefit of remission should not be given to those prisoners who are convicted for rape.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“The power to grant remission in sentence awarded to a convict is clearly available to the Government under Section 432 of the Code of Criminal Procedure. In terms of an order dated 9.7.2004, issued by the State Government, certain guidelines have been framed for the exercise of that power. A reading of the said order would show that the benefit of remission is made inadmissible in as many as eight different categories of cases including cases involving culpable homicide with rape and offences against children, offences in ghastly murders, double murders and in dowry death cases. Mr. Arora, who appears in person, argues that the benefit of remission should not be admissible to those convicted for rape punishable under Section 376 of the Indian Penal Code. He submits that since the offence of rape is committed against the weaker sex, the State Government could include the offence of rape also as one of the excepted offence in which remission should not be admissible. Having given our careful consideration to the submission of Mrs. Arora, we are of the opinion that we cannot authoritatively pronounce upon the desirability of excluding sentences imposed upon convicts for offences punishable under Section 376 of the Indian Penal Code from the purview of the power of granting remissions under section 432 of the Cr. P.C. in a public interest litigation. The proper course for the petitioner is to make an appropriate representation to the Government concerned which representation, if made, shall be considered by the government and appropriate orders, considered just and proper, issued on the subject. This writ petition is disposed off with the above observations. No costs.

(T.S. thakur)  
**Chief Justice**  
(Surya Kant)  
**Judge**

September 24th, 2008”

# Proclaimed Offenders

CWP No. 2217 of 2006  
(H.C. Arora vs State of Punjab & Others)

## ISSUES RAISED IN PIL

*In this PIL, the prayer was for issuance of appropriate directions to the States of Punjab, Haryana and Union Territory Chandigarh to start fresh drive for nabbing the proclaimed offenders and absconders in their territories.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

We have heard the learned counsel for the parties and gone through the replies filed by the respondents. We note with concern from Annexure R-1 as to the number of absconding accused in the State of Punjab. It reveals that as of today, more than ten thousand accused are absconding or have been declared proclaimed offenders. We hope and trust that the State Government would take immediate measures to stop what is clearly an un-acceptable situation. We also find that a suggestion has been mooted that before accepting a surety while releasing an accused on bail, some kind of enquiry with regard to the antecedents of the surety should be taken by the Court. We are of the opinion that this suggestion requires to be accepted. We accordingly direct that in addition to the procedure which the Court seized of the matter may choose to adopt, an affidavit from the surety, in which he/she should be called upon to depose as to the number of cases in which they have given surety should also be taken. This procedure will help in weeding out persons, who have made a profession of standing a surety. As we are of the opinion that the matter requires further consideration, we adjourn the same to 12.12.2006. In the meantime, this order be circulated to the District and Sessions Judges and Chief Judicial Magistrates in the States of Haryana, Punjab and U.T. Chandigarh.

Dasti order.

(H.S. Bedi)  
**Acting Chief Justice**  
(Raanjit Singh)  
**Judge**

**September 07,2006”**

“This petition has been filed in Public Interest. It seeks a mandamus directing respondents No. 1 to 3 to start a fresh drive for nabbing those declared proclaimed offenders and absconders in the States of Punjab, Haryana and the Union Territory of Chandigarh.

In response to a notice issued by this Court, the States of Punjab, Haryana and Union Territory of Chandigarh.



In response to a notice issued by this Court, the State of Punjab has filed two affidavits in which it is, inter-alia, stated that the police department has started a drive to arrest all proclaimed offenders and bail jumpers, and nabbed a large number of such persons during the last three years. In the affidavit sworn by Gautum Cheema, IPS, Assistant Inspector General of Police, Crime, Punjab, the figures of such arrests between the years 2000 to 2008 have also been given. On a perusal of the said affidavit, it is evident that hundreds of proclaimed offenders have been arrested during the past eight years or so. In the year 2007 itself, as many as 886 proclaimed offenders were arrested. In the year 2008 also the figure of those arrested is as high as 550 proclaimed offenders and 1997 absconders. It is argued by Mr. Singh, counsel appearing for the State of Punjab that the Deputy Inspector General of Police, Intelligence has issued circular-instructions to all the Senior Superintendents of Police, Punjab in terms of Annexure R-5 dated November 13, 2007 impressing upon them the need to take up the drive for arrest of proclaimed offenders and absconders on priority basis and produce them before the courts concerned.

In so far as the State of Haryana is concerned, an affidavit has been filed by Shri Sharad Kumar, Additional Director General of Police, from a reading whereof it does appear that special drives have been taken up by the police to arrest the proclaimed offenders and bail jumpers in the State of Haryana also. The Affidavit further indicates that between 15.03.2008 to 15.04.2008 as many as 78 proclaimed offenders, 644 absconders and 5 parole jumpers were arrested. The affidavit goes on to state that the Deputy Superintendent of Police in the State of Haryana have been directed to up date the record of the proclaimed offenders, bail jumpers and parole jumpers. The Deputy Superintendents of Police have been further directed to get all the proclaimed offenders and absconders arrested immediately. That is true, even in regard to Union Territory of Chandigarh. The Senior Superintendent of Police, Chandigarh has similarly given the particulars of those arrested in the recent past. The affidavit also gives particulars of the arrests made during the year 2007-2008.

In the light of the initiatives taken by the police authorities of the States of Punjab, Haryana and the Union Territory of Chandigarh, we see no reason to continue with the present proceedings. The same can, in our opinion, be disposed of with a direction to the police authorities in the States of Punjab, Haryana and the Union Territory of Chandigarh to take effective steps for arrest of all such accused-persons as have been declared proclaimed offenders and as have jumped bail or parole granted to them. Appropriate directions shall in this regard be issued by the state authorities to the S.H.O.s of the concerned police stations to ensure that proclaimed offenders and persons jumping bail to avoid the legal process do not get any benefit from the laxity or inaction on the part of the police. This petition is accordingly disposed of with the above direction.

A copy of the order shall be given dasti to counsel appearing for the States of Punjab, Haryana and Union Territory, Chandigarh. No costs.

(T.S. Thakur)  
**Chief Justice**  
 (Surya Kant)  
**Judge**

September 02, 2008”

# **PART- V**

# **Miscellaneous**



# Income Tax exemption to MLAs

CWP No. 13525 of 2006  
(H.C. Arora vs State of Punjab and others)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had challenged the exemption granted to the members of Legislative Assembly of Punjab from payment of income tax on their salaries.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

The present writ petition has been filed impugning the notification dated 25.3.2004, Annexure P-1, issued by respondent No. 2 insofar as it exempts the Members of the Legislative Assembly of Punjab from the payment of income tax as being unconstitutional and discriminatory and against public interest. The primary plea taken is that Article 196 of the Constitution of India, which deals with the powers of the legislature to determine by law, the salaries and allowances to be paid to the Members of the Legislative Assembly was violative of Article 14 of the Constitution of India and, therefore, was liable to be struck down. It has been pleaded that the exemption from payment of income-tax was arbitrary and was clearly self serving and, therefore, bad in law. Reliance has been placed on *Jaswant Sugar Mills Ltd. Meerut Vs. Lakshmi Chand and others*, AIR 1963 Supreme Court 677, *Justice Deoki Nandan Agarwala Vs. Union of Indian and another*, AIR 1999 Supreme Court 1951 and *Shri Emil Webber Vs. Commissioner of Income Tax*, AIR 1993 Supreme Court 1466 in support of the various pleas raised by the petitioner.

We have considered the arguments and find that they lack merit. At the very outset, we may point out that the writ petition is extremely sketchy and does not make out a case on merits. It would also be seen that Article 196 of the Constitution of India deals with the authority of the legislature to frame laws for the payment of salaries and allowances to Members of the Legislative Assembly. We observe that by Annexure P-1, the Members of the Legislative Assembly have been given salaries exclusive of income tax which was to be paid by the State Government. We are of the opinion that this amendment flows from the express words of Article 196 of the Constitution of India. The argument of the learned counsel that by way of this amendment, Article 14 of the Constitution of India has been violated inasmuch as judges of the High Court and the Supreme Court and other public servants had not been granted the benefit of the exemption, cannot be accepted as the discrimination visualized under Article 14 must be amongst similar categories of persons. The Members of the Legislative Assembly cannot, thus, be equated with the other public servants or members of the judicial services. In this view of the matter, the judgments cited

by the petitioner are not applicable to the facts of the case. We are also of the opinion that no malafide of any kind can be attributed to the legislature. We accordingly find no merit in the writ petition.

Dismissed.

August 28, 2006”

(H.S. Bedi)  
**Acting Chief Justice**  
(Ranjit Singh)  
**Judge**

# Female Foeticide

CWP No. 2212 of 2007  
(H.C. Arora vs Union of India and others)

## ISSUES RAISED IN PIL

*In this PIL, the prayer was for issuance of a Writ of Mandamus to the State Governments of Punjab, Haryana and U.T. Chandigarh Administration to consider the suggestions made by the petitioner for giving monetary rewards to those who report incidents of female foeticide.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“The only relief prayed for in this petition filed in public interest is a writ of mandamus directing the respondents to consider whether giving of a monetary reward to the informers could be taken as one of the steps for eradicating the menace of female foeticide.

In response to a notice issued by this Court, the Government of Punjab have filed an affidavit sworn by Dr. Rana Harinder in which it is, inter-alia, pointed out that the Government of Punjab have taken various steps to prevent female foeticide in the State, one of which envisages a prize of Rs. 5,000/- for every informer who helps the Government in nabbing a Medical Centre indulging in sex determination and an incentive of Rs. 5,000/- to a decoy patient for nabbing violators of the Pre-Natal Diagnostic Techniques (Regulation & Prevention of Misuse) Act, 1994 (for short the 'PNDT Act'). A similar affidavit has been filed on behalf of the Government of Haryana also in which, it is, inter-alia, stated that while the Government of Haryana have also formulated various schemes to eradicate female foeticide but the said schemes do not for the present envisage grant of any reward to informers. Mr. Malik appearing on behalf of the Government of Haryana, however, had no objection to the consideration of the petitioner's suggestion that a provision for grant of a monetary reward for informers would be made on the analogy of the position prevalence in the State of Punjab. He submitted that if the petitioner chooses to make any suggestion to the Director General, Health Services, Haryana, the same shall be considered and orders considered feasible, passed in that regard.

Ms. Jai Shree Thakur, appearing for the Chandigarh Administration, also has no objection to the suggestions made by the petitioner being considered by the Secretary to U.T. Administration, Department of Health and appropriate orders regarding the same passed.

Insofar as Government of India is concerned, Dr. Sidhu appearing on its behalf,

submitted that although a number of other steps have been taken by the Government with a view to eradicating female foeticide in various states including the States of Punjab and Haryana, yet the State Governments, if so required, can consider the grant of incentives in the form of rewards to those who help in detection of violation of the PNDT Act.

In the circumstances, therefore, and keeping in view the limited prayer made in the writ petition, we see no reason to keep this petition pending on our board. Interest of justice would, in our opinion, be fully served if we direct the Government of India, Government of Haryana and the Chandigarh Administration to consider the suggestions made by the petitioner and accept such of them as are found feasible as an additional step for eradication of the menace of female foeticide in the State of Haryana and U.T. of Chandigarh. The petitioner shall be free in this regard to address a suitable communication making suggestions to the Director General, Health Services, Haryana; Secretary, Health Services, U.T. Administration, Chandigarh and the Director, PNDT, Ministry of Health and Family Welfare, Government of India. In case the needful is done by the petitioner within six weeks from today, the authorities mentioned above shall consider the same and pass appropriate orders in accordance with law under intimation to the petitioner, expeditiously but not later than six months from the date the representation is received. The writ petition is disposed of with the above directions leaving the parties to bear their own costs.

(T.S. Thakur)  
**Chief Justice**  
(Surya Kant)  
**Judge**

August 12,2008”

# Destruction of Explosives-I

CWP No. 1746 of 2008  
(H.C. Arora vs State of Punjab and others)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner has prayed for issuance of a mandamus for directing destruction/disposal of a huge stocks of explosives lying at Dry Port, Dhandari Kalan, Ludhiana, since October 2004 which, according to the petitioner, has become a security risk for the people living in the vicinity of the said area.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“The only further direction that we need to issue, is, to the Government of Punjab and the District Magistrate, Ludhiana, to ensure that the explosive material is disposed of after taking such precautions and safety measures as may be essential to prevent any loss of life, limb or property to anyone involved in the task of disposal or any other Citizen. There is no manner of doubt that the cost of such disposal must be entirely borne by the importers themselves and the said cost cannot be confused with the levy of fine upon them. We say so because while levy of fine may take care of the irregularity or breach of any provision of the statute in the making of the import, the same cannot be deemed to be inclusive of the cost involved in the disposal/destruction of hazardous or explosive material like the one reported in the instant case. In fairness to counsel appearing for the importers, we must mention that even they did not dispute that the liability on account of the expenditure incurred on the disposal of the explosive material lies entirely upon the importers. All that was submitted was that the assessment of the cost of the disposal may be on the higher side which aspect could be re-examined by the District Administration on the representations which the importers may make before the District Magistrate. That liberty has already been granted to the importers and we see no reasons why the same should not be made absolute with the clarification that no part of the expenses involved on the disposal of the explosive material shall be excluded from reckoning while determining the total expenditure. We make it clear that expenses of any nature whatsoever including expenditure on use of vehicles, petrol, oil and lubricants or payments made to officers, experts and employees, mazdoors towards completion of operation 'Sanyam' shall not form a burden for the Public Exchequer. The District Magistrate and the Commissioner of Customs, Amritsar, shall be free in this regard to re-determine the amount taking into consideration any representation which the importers may make and recover the shortfall or refund the excess if any paid by them as the case may be.



In the result, this petition is allowed with the direction that the Home Secretary to Government of Punjab shall personally co-ordinate the process of disposal of the explosive material taking all precautions for the safety and security of the people in the neighbourhood and those involved in the exercise of disposal of the material which exercise ought to be completed expeditiously but not later than two months from the date a copy of this order is received by the Home secretary. Needless to say that all authorities statutory or otherwise including the Army Authorities shall lend whatever co-operation and assistance is needed for the disposal of the material so that the material stands defused and disposed of before any untoward incident take place. M/s Raghav Industries, Ludhiana, shall deposit the amount of Rs. 3,44,165/- determined as its share of the expenditure within two months from today, failing which the same shall be recovered as arrears of land revenue from the said respondent. Liberty is, however, given to all the importers to make a suitable representation to the District Magistrate, Ludhiana, for re-determination of the amount of expenditure involved in the disposal of the explosive material, in which event the District Magistrate shall re-determine the amount of expenditure involved in the disposal of the explosive material, and recover the shortfall or refund the excess if any paid as the case may be.

Parties are directed to bear their own costs in these proceedings.

(T.S. Thakur)  
**Chief Justice**  
(Kanwaljit Singh)  
**Judge**

November 9<sup>th</sup>, 2009”

# Destruction of Explosives-II

COCP (Civil) No. 567 of 2010  
In CWP No. 1746 of 2008  
(H.C. Arora, Advocate vs S.C. Aggarwal)

## ISSUES RAISED IN PIL

*In this Contempt Petition, the petitioner had prayed for initiation of contempt proceedings against the Chief Secretary, Punjab for deliberately disobeying the directions contained in the judgment dated 9.11.2009 passed by Hon'ble High Court in CWP No. 1746 of 2008, in as much as the respondents had failed to ensure the destruction of explosive materials lying at Dry Port, Ludhiana..*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“Mrs. Anjali Kukkar, Central Government Standing Counsel, states on instruction that a total of 19,905 (Nineteen Thousand Nine Hundred And Five Only) explosives lying in all five CTN have been destroyed.

In view of the statement made by Central Government Standing Counsel, the present petition has been rendered infructuous and is disposed of accordingly.

Rule discharged.

March 22, 2011”

(Rajeev Bhalla)  
Judge”

# Commission to Middle-Man for Bank Loan

CWP No. 6566 of 2008  
(H.C. Arora vs State of Punjab)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of instructions to the State Government to conduct a vigilance enquiry into the conduct of officers of Punjab State Electricity Board, Patiala in raising loan of Rs. 300 Crores from Punjab National Bank by paying commission of Rs. 1.62 Crore to a middle man (loan arranger)*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“There are many question marks regarding transparency, accountability of the present deal, whereby commission was paid. There are various circumstances, which raise need of suspicion and it can be presumed that role of the officials of the Board and the Bank is not above-board. Otherwise also, it cannot be digested that two instrumentalities of the Govt., for transacting business between them, require any intermediary, which cause drain on public exchequer and thereby money of the tax payer is robbed.

We are of the view that officials of the Bank and the Board are public servants within the meaning of section 2(c) of the Prevention of Corruption Act, 1988. Therefore, there is need to enquire whether the payment of commission amounting to Rs. 1.62 crores to a Loan Arranger amounts to criminal misconduct on the part of the public servants, who were engaged in this deal. The Bank employees are Central Govt. employees and serious misconduct on their part as public servants can only be enquired by the Central Bureau of Investigation (CBI).

In view of the observations made above, we dispose of the present writ petition by giving following directions:

- (a) The Director, CBI shall order registration of preliminary enquiry to enquire into the allegations of criminal misconduct on the part of the public servants, who include Bank officials and officials of the Board. The enquiry may be assigned by the Director, CBI to any officer of the rank of Joint Director or the DIG, with expertise in investigation banking, commercial and financial frauds. In case, the preliminary enquiry reveals the commission of a cognizable offence, a regular case be registered and investigated, and thereafter, taken to its logical conclusion;

- (b) The Reserve Bank of India is one of the watch-dogs of finance and economy of the nation. It ought to be aware of the alleged prevailing practice of payment of commission to Loan Arrangers for obtaining a term loan from a nationalized Bank by a Public Sector Undertaking. We request the Reserve Bank of India to consider and if necessary, evolve a mechanism to curb such payments to the Loan Arrangers and introduce necessary safeguards to plug the loopholes and leakage of funds, which have been garnered by the Public Sector Undertakings from its consumers or the tax payer.

(T.S. Thakur)

**Chief Justice**

(K.S. Ahluwalia)

**Judge**

October 9, 2009”

# Draws of Lotteries

CWP No. 7988 of 2008  
(H.C. Arora vs State of Punjab and others)

## ISSUES RAISED IN PIL

*This PIL was filed for seeking the issuance of appropriate directions for restraining Government of Punjab from conducting a large number of draws of lotteries, which were in violation of the provisions of "Lotteries (Regulation) Act, 1998"*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

"Petition states that since his grievance has been redressed, this petition may be dismissed as having become infructuous.

Ordered accordingly.

(Mukul Mudgal)  
**Chief Justice**  
(Ajay Tewari)  
**Judge**

July 26th, 2010"

**NOTE:-** During the pendency of the aforesaid PIL, Government of India had issued a notification for regulating number of draws of lotteries.

# Over-speeding and drunken-driving

CWP No. 8305 of 2010

(H.C. Arora vs U.T. Administration, Chandigarh and others)

## ISSUES RAISED IN PIL

*The petitioner had filed this PIL for seeking appropriate directions from the Court for conducting regular check up of vehicles to detect instances of over speeding and drunken driving under the influence of liquor.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“Pursuant to the order dated 25.10.2010 passed by the Court, an affidavit of Shri H.S. Doon, Senior Superintendent of Police (Traffic) has been filed on behalf of the U.T. Administration, Chandigarh disclosing the total number of cases of under age driving; dangerous driving; drunken driving and over speeding. In the affidavit filed, it has been further stated that Chandigarh Traffic Police is making all efforts in this regard by taking different steps details of which have been delineated in the affidavit filed.

Taking into account the statement made in the affidavit and the details of the cases detected as enclosed in the enclosure to the affidavit (Annexure A-1) we are of the view that this PIL should be disposed of with the direction to the Senior Superintendent of Police (Traffic), Union Territory, Chandigarh to ensure that effective monitoring of instances of under age driving, dangerous driving; drunken driving and over speeding be continued and cases as and when detected be dealt with in accordance with law so as to ensure that the roads of the City Chandigarh are free from any such dangerous portents.

With the above direction, this PIL stands disposed of:

(Ranjan Gogoi)

**Chief Justice**

(Augustine George Masih)

**Judge**

February 1, 2011”

# Liquor Vends

**CWP No. 11380 of 2011**  
**(H.C. Arora vs State of Punjab and others)**

## ISSUES RAISED IN PIL

*In this PIL, the prayer made was for issuance of appropriate directions to the State of Punjab to change the timings of opening and closure of the liquor shops, which were allowed to remain open from 7.00 A.M. to 11.00 P.M., and also for directing the State Government to keep the liquor vends closed on Republic Day and Independence Day.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“With the consent of the parties, all the four writ petitions are taken up together for consideration and are being disposed of by a common order.

Civil Writ Petition No. 11380 of 2011 pertains to the timings of opening and closure of the liquor shops in the State of Punjab whereas Civil Writ Petitions No. 19037 of 2010 and 1713 of 2011 pertain to the minimum distance that is required to be maintained between the liquor shops and educational institutions or religious shrines. In Civil Writ Petition No. 20488 of 2011 the relief sought for is that the liquor shops in Mohali City should not be allowed to be established in open spaces/green belts owned by GMADA particularly close to the traffic signals and should be shifted to the commercial areas of the city.

The issues arising in these writ petitioners pertain to the policy matters which are covered by laid down norms framed by the State Government from time to time. Whether the liquor shops should be opened at any particular time and whether in the State of Punjab such timings should coincide with the timings in the other states like Haryana and Uttar Pradesh are primarily matters for the Executive to decide. What is maximum distance that should be maintained between the liquor shops and the educational institutions/religious shrines or traffic signals and also whether liquor shops should remain open on certain days i.e. Independence Day, Republic Day etc., again, are the matters of policy, though there can be no two opinions that a reasonable distance should be maintained between a liquor shop and an educational institutional institution/religious shrine. What would be the reasonable distance or what would be the appropriate timings of opening and closure of the liquor shops are matters which are required to be decided on consideration of a wide variety of factors which the Court may not be well equipped to deal with.

We have noticed that in the State of Punjab the Liquor Policy is framed every year in the month of February in the light of the experiences that have been gained in working of the previous policies. In this manner, the new policy for the year 2012-13 is likely to be framed in the month of February, 2012 to be made effective from 01.04.2012. We, therefore, deem it appropriate to leave it to the wisdom and discretion of the appropriate authorities of the State to fix the timings of operation of the liquor shops in the State after taking into account all the relevant facts and circumstances. While framing the new policy for the new year, the State Government will also take into account all the relevant factors to determine what would be the reasonable distance between the liquor shops and educational institutions/religious shrines and traffic signals and whether the liquor shops should be allowed in open spaces. Beyond the aforesaid observations and directions, no further order of the Court, according to us, will be called for. We, therefore, close all the four writ petitions in the above terms.

(Ranjan Gogoi)  
**Chief Justice**  
(Surya Kant)  
**Judge**

**December 22nd, 2011”**



# Plots to PUDA Employees

CWP no. 12628 of 2011

(H.C. Arora vs State of Punjab and others)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for quashing clauses (4), (7) and (9) of the office order dated 24.9.2010 (P-1) as it prescribed for allotment of identified residential plots exclusively to the employees of Punjab Urban Development Authority at reserve price.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“17. We are further of the view that the impugned Scheme is arbitrary which is amply highlighted by the fact that it does not distinguish an officer/official who or his/her spouse own a house in an urban estate. In fact, clause 4 of the Scheme expressly postulates that the officers/officials who had purchased plot/house/building through open sale in market or auction is also eligible to submit application under the Scheme. This has been illustrated by the particulars of Class-I officers of PUDA who have applied for allotment of residential plot at reserve price in the remarks column (P-2/1). For illustration, the Superintending Engineer, GMADA, SAS Nagar- Mr. J.J. Kumar, has already been re-allotted/purchased from open market House No. 15, Sector 71, SAS Nagar, Mohali, which is part of Tricity of Chandigarh. The rest of the applicants candidly admit that they or their spouses have already been owner of a house either having purchased the same from open market or by availing bank loan. Similar is the position of Class-II officers, as is evident from perusal of Annexure P-2/2. All this shows that the Scheme is arbitrary and does not seek to serve the needy section of the society; and thus violates Article 14 of Constitution.

18. In Support of our view we place reliance on the judgment rendered in the case of **Thapar Institute of Engineering and Technology V. State of Punjab, (1997) 1 SCC 65**, Hon'ble the Supreme Court set aside the reservation to the extent of 2 % of seats for wards of employees of the Thapar institute and 5% seats for wards of employees of the Thapar Group of Industries and the same was regarded as violative of Article 14 of the Constitution.

19. In view of the above, the writ petition is allowed. The Scheme/office order dated 24.9.2010 (P-1) or any other similar scheme is hereby quashed.

(M.M. Kumar)

**Judge**

(Rajiv Narain Raina)

**Judge**

January 25, 2012”

# Discretionary Grants by Punjab Ministers

CWP No. 2429 of 2010  
(H.C. Arora vs State of Punjab and others)

## ISSUES RAISED IN PIL

*In this PIL, the petitioner had prayed for issuance of appropriate directions to the State of Punjab for introducing effecting safeguards in the matter of disbursement of discretionary grants by Punjab CM/Deputy CM/Chief Parliamentary Secretaries.*

## INTERIM DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“We have gone through the affidavit filed by Kamlesh Arya, Under Secretary to Government of Punjab, Department of Rural Development & Panchayats. In order dated 26.03.2012, this Court had rejected the affidavit dated 21/22.03.2012, which was sought to be filed in the Court. The affidavit of Sh. Kamlesh Arya, Under Secretary does not explain the authority which has released the grant. It requires explanation whether before releasing/sanctioning of grant all the precautions were taken or not; and the antecedents of the recipient of the grant were checked or not. The question whether furnishing of utilization certificate before releasing the next installment of grant was ensured or not, has also not been answered.

The reason for non-compliance of the directions issued by this Court vide order dated 26.03.2012 appears to be that affidavits are being filed by a person who is the lowest in the hierarchy i.e. Under Secretary. It is doubtful whether an affidavit could be filed in the High Court by Under Secretary as per Business Rules of the Government. Therefore, it has become necessary to direct that the officer not below the rank of Secretary to Government of Punjab, Department of Rural Development & Panchayats to file his affidavit explaining various aspects of discretionary grant and the action taken for rectifying and ensuring that the funds are utilized for the purpose for which the grant was released. It is also required to be ensured that the authority, before release of grant to the body/NGO or any other recipient should have considered the competed claim. The pick and chose formula would also not be acceptable to any society ruled by rule of law. Before issuance of any grant, the competing claim should have been invited and only then the grant could have been released to the deserving persons who have shown the result in the past or have shown promise to work in the area. It has been seen that various NGOs secure grant without working for the purpose it is floated. *It is made clear that no grant shall be released/sanctioned unless it complies with the provisions of Article 14 of the Constitution which requires that competing claim of various persons should be considered by the authority concerned. Without complying*

**with the aforesaid principle, the release of grant shall remain stayed.**

Let an affidavit be filed along with the action taken report within four weeks with a copy in advance to the petitioners. The future road map should also be disclosed in the affidavit because whatever has been stated is not satisfactory.

The affidavit shall also explain the status of the audit verifying whether grant released for the purpose was utilized for it or not. The mere certificate that the grant has been utilized would not be sufficient without detail explanation showing that it has been utilized on a specific head and subject for which it was released.

List again on 10.07.2012

A copy of this order be given dasti to learned State counsel on payment of usual charges.

May 17th, 2012”

(M.M. Kumar)  
**Acting Chief Justice**  
(Alok Singh)  
**Judge**

# Premature release of life convicts

CWP No.5454 of 2011  
(H.C. Arora vs State of Punjab and others)

## ISSUES RAISED IN PIL

*This writ petition had been filed seeking a direction to the respondents for ensuring grant of remission and premature release to life convicts only on the recommendation of the Gram Panchayat taken in a meeting of the Gram Panchayat and not on the basis of the unilateral recommendations of the Sarpanches.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

The Special Secretary to the Government of Punjab, Department of Home Affairs and Justice has filed an affidavit, inter-alia, stating that a new policy has been brought into force w.e.f. 08.08.2011. In terms of the new policy, amongst others, if a convict maintains good conduct during the last five paroles' and there is no adverse report against him, his case for premature release can be considered without the report of the village Sarpanch.

In view of the aforesaid new policy that has been brought into effect, the prayer made in the writ petition i.e. for enforcing the earlier policy of 1991 will no longer present a live issue for adjudication by the Court. We, therefore, do not entertain this writ petition any further. However, we make it clear that though the new policy has been placed before us, as the validity of the same is not an issue in the writ petition, we should not be understood to have expressed our opinion on the merits and validity of the said policy in any manner whatsoever.

Writ petition shall stand disposed of in the above terms.

(Ranjan Gogoi)  
**Chief Justice**  
(Mahesh Grover)  
**Judge**

March 13, 2012”

# Destruction of case property and RDX stocks

CWP No. 18648 of 2011  
(H.C. Arora vs State of Punjab and others)

## ISSUES RAISED IN PIL

*This Public Interest Litigation had been filed seeking appropriate directions from the Court for disposal of various narcotic drugs and psychotropic substances, lying in the Malkhanas of Police Stations all over Punjab, in accordance with the provisions of Section 451 Cr. P.C. A further writ or direction to take steps to destroy RDX stocks had also been prayed for.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

"In so far as the first prayer i.e. destruction of Narcotic drugs and Psychotropic substances are concerned, the State of Punjab, in the affidavit filed, has stated that a well laid down policy has been framed and one firm namely, Varun Eco Treatment Equipments Pvt. Ltd., has been entrusted to destroy such drugs and for the said purpose two Drug Disposal Incinerators are to be supplied latest by 10.3.2012.

In so far as the second issue is concerned, according to the State of Punjab, its police force is not adequately equipped to destroy stocks of explosives and therefore, direction be issued to the Army Authorities through the Union of India to offer their co-operation and specific know how to the Punjab Police in the matter of destroying RDX stocks lying in the malkhanas of the State.

Affidavits have been exchanged by and between the parties. In so far as the first issue is concerned in view of the stand taken by the State of Punjab no further order in the matter is required.

Coming to the second issue we find that in the affidavit filed by the respondent No. 4 on behalf of the Western Command it has been inter-alia stated that sufficient number of personnel of the Punjab Police have been trained to counter and defuse explosive devices. A list of such trained personnel numbering 59 has also been enclosed to the said affidavit filed by the respondent No. 4.

The above facts belie the stand of the State as taken in the affidavit filed details of which have been noticed above. However, it is made clear that if any such cooperation is required

by the Punjab Police from the Union of India, the appropriate department of the Union will not hesitate in extending assistance and cooperation in such manner that the task assigned can be best performed.

Having dealt with the issues arising in the present Public Interest Litigation in the above manner, we are of the view that no further issue remains for consideration of the Court.

The Public Interest Litigation, therefore, stands disposed of in the above terms.

(Ranjan Gogoi)  
**Chief Justice**  
(Mahesh Grover)  
**Judge**

March, 5, 2012”

# Targets for criminal cases

**CWP No. 18400 of 2007**  
**(H.C. Arora vs Union of India and others)**

## ISSUES RAISED IN PIL

*The instant PIL was filed assailing the action of Railway Ministry in fixing for the Sub-Inspectors and Assistant Sub-Inspectors targets for registration of cases under Railways Act, 1989.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

“We had issued notice of motion considering the absurd objective of the aforesaid directive issued by the Commandant, Railway Protection Force, Northern Railway, Ambala, which was threatening to become a fountain head of registration of false cases in the name of accomplishment.

Reply has now been filed by the respondents wherein they have stated that a decision has been taken on 31.8.2007 to stop this quota/target system.

Accordingly, we feel that the concern which has been raised in this writ petition has been adequately met and the same has been rendered infructuous. Disposed of as such.

**July 03,2008”**

(Vijender Jain)  
**Chief Justice**  
(Mahesh Grover)  
**Judge**

# 'Contents Code' for T.V. Channels

CWP No.14012 of 2007  
(H.C. Arora vs Union of India and others)

## ISSUES RAISED IN PIL

*This petition was filed in Public Interest. It prayed for a Mandamus directing the Union of India to evolve an appropriate Code of conduct/ "Contents Code", or some other self-regulatory mechanism for private television/news channels for preventing glorification of crime, violence and vice, which dominate these channels as excessive telecast of such stories on these channels is bound to encourage anti-social activities and exert a harmful influence on persons of impressionable age.*

## DIRECTIONS ISSUED BY HON'BLE HIGH COURT

In the reply filed on behalf of the respondents-Union of India, it is inter alia stated that a committee has been constituted for reviewing programme and advertising codes prescribed under the Cable TV Network (Regulation) Act, 1995 and the rules framed thereunder and the guidelines for certification of films prescribed under the Cinematography Act, 1952. A new "Contents Code", it appears, is being drafted by the said Committee with a view to giving greater specificity and detail and to introduce new provisions considered necessary as per contemporary community standards to facilitate self regulation among T.V. Channels. This Committee among others consists of representatives of Broadcasting organizations, Civil Society groups and consumer fora. The draft of the proposed "Contents Code" as prepared by the Committee has been posted on the website of the Ministry of Information and Broadcasting at [www.mib.nic.in](http://www.mib.nic.in). Representations and suggestions are still being received by the authorities both for and against the code. The counter affidavit goes on to state that the issue of violence, crime and horror serials is in the process of being considered by the Committee. It denies the allegation that the proposed "Contents Code" would have nothing to do with the stories and serials of crimes being telecast.

Mr. H.C. Arora, who appears in person submits that in the light of the averments made in the counter affidavit and the fact that the process of redrafting the "Contents Code" by the Committee referred to in the counter affidavit is afoot, it is not necessary for this Court to issue any specific direction on the subject except that any suggestion which the petitioner may have to make in relation to the said code may also be considered by the Committee concerned. He submits that he would make his suggestions in relation to the proposed Contents Code in writing and send the same to the Secretary, Government of India, Ministry



of Information and Broadcasting, New Delhi which could then be considered at the appropriate level.

Shri Gupreet Singh, counsel appearing for the Government of India has no objection to the course of action proposed by Mr. Arora, being followed. He submits that if any suggestions are received from the petitioner within the time frame fixed by the Court, the same shall also be referred to the Committee for consideration and if considered feasible incorporated in the “Contents Code”. In the circumstances, therefore, and keeping in view the submissions made at the Bar, we consider it unnecessary to issue any specific direction regarding the need for regulation of the so called programmes in exercise of our Public Interest Jurisdiction. All that we need say is that the petitioner is free to make suggestions, if any, for incorporation in the “Contents Code” by the concerned committee, within two weeks from today. In case any such suggestions are addressed to the Secretary to Government of India, Ministry of information and Broadcasting, within the period mentioned above, the Secretary shall refer the same to the Committee concerned for consideration. We hope and trust that the Committee shall give due consideration to the suggestions so made while preparing the Contents Code. Beyond this, it is neither necessary nor proper for us to say anything at this stage.

This petition is accordingly disposed of with no order as to costs.

(T.S. Thakur)  
**Chief Justice**  
(Surya Kant)  
**Judge**

August 13, 2008”

## ABOUT THE AUTHOR



**H. C. Arora**

The author of this book is an advocate practicing in Punjab and Haryana High Court at Chandigarh. He is a well known RTI Activist of this region. He is dedicated to social welfare and is well known for using the medium of PILs (Public Interest Litigations) for achieving his social mission, including eradication of corruption.

The author believes that he is leaving his legacy through this book for younger lot of lawyers, RTI activists and the people of this Country.

## ABOUT THE BOOK

This book is a short collection of the operative portions of the orders passed by the Hon'ble Punjab and Haryana High Court in some of PILs (Public Interest Litigations) filed by the author.

**H.C. Arora,  
Advocate**

**Chamber No. 46 (High Court)  
Punjab & Haryana High Court, Chandigarh.**

**Phone: 0172 - 2645373 Mobile: +91 98140-13764  
Fax: 0172-2645373**

**E-mail: [h\\_c\\_arora@yahoo.co.in](mailto:h_c_arora@yahoo.co.in)  
[hcarora.highcourt@gmail.com](mailto:hcarora.highcourt@gmail.com)**