

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP (PIL) No. 6462 of 2016

1.H. C. Arora, Advocate s/o Late Sh. Sundar Dass, r/o H. No. 2299,
Sector-44/C, Chandigarh.

2. Mitter Sain Goel, S/o Sh. Sehaj Ram Gupta, resident of 2297, Street-
5, Upkar Nagar, Ludhiana.

.....Petitioners in Person

Versus

1. State of Punjab, through its Secretary Personnel , Punjab Civil Secretariat, Chandigarh.
2. Chief Secretary, Government of Punjab, Punjab Civil Secretariat, Chandigarh.
4. Principal Secretary, Department of Home Affairs and Justice, Government of Punjab, Punjab Civil Secretariat, Chandigarh
5. Registrar General, Punjab & Haryana High Court, Chandigarh.

...Respondents

Civil Writ Petition under Article 226 of the Constitution of India (by way of a PIL) for seeking the issuance of a Writ of Certiorari, for quashing the letter dated 5.2.1991 (Annexure P-2) issued by the Registrar of this Hon'ble Court, directing all the District and Sessions Judges in the State of Punjab to continue English as a official language of the Courts, the same being in violation of the provisions of the 2008 Amendment to the Punjab Official Language Act, 1967 (Annexure P-1), which mandates that on expiry of 6 months from the date of enforcement of the said amendment, only the Punjabi language shall be the official language of all the Courts in the State of Punjab;

And for seeking the issuance of a Writ of Mandamus or any other appropriate writ, direction or order for directing the respondents no. 1 to 4 to ensure the implementation of the mandate contained in 2008 Amendment to the Punjab Official Language Act, 1967, Annexure P-1, by directing all the Civil and Criminal Courts (subordinate to the Hon'ble High Court, Revenue Courts and Rent Tribunals, and all other Tribunals set up by Punjab Government, to do all work in accordance with the said provision by using only Punjabi as official language, as read with various other relevant provisions contained in the Civil Procedure Code, 1908 as well as Criminal Procedure Code, 1973; and to provide the

**requisite infra structure to all such Courts and Tribunals
for doing all work in Punjabi language;**

**And for restraining the operation of the letter, Annexure
P-2 dated 5.2.1991, during the pendency of the instant
Civil Writ Petition;**

**And to grant any other relief, to which the petitioners
may be found to be entitled by this Hon'ble Court, in the
facts and circumstances of the instant case;**

RESPECTFULLY SHOWETH :-

1. That the petitioner are Indian Citizens. They are resident of Chandigarh and Ludhiana (Punjab) respectively The petitioners are therefore, entitled to invoke the extraordinary writ jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India.

2. That the petitioner No. 1 is an Advocate practicing in the Hon'ble Courts at Chandigarh. The petitioner has authored several books in Punjabi , which include the Gathas of various martyrs namely (i) Gatha Shaheed Bhagat Singh; (ii) Gatha Shaheed Udham Singh; (iii) Gatha Shaheed Madan Lal Dhingra; (iv) Gatha Shaheed Kanshi Ram and Gadar Laher; (v) Gatha Shaheed Kartar Singh Sarabha and Gadar Laher. The petitioner has also authored three other books of poems in Punjabi, namely, (i) Jung Jari Hai; (ii) Peeran Nashiyan Dian, a book wholly dedicated against drug addiction & (iii) Taria Di Duniyan, a book

containing poems meant for children only. Thus, the petitioner No 1 is wholly devoted to propagation and development of Punjab language. As regards the petitioner No. 2, he served in the Prosecution Department of Government of Punjab for 34 years and retired as District Attorney. He is a Punjabi Novelist. He has written 6 Novels and two books of short stories. His novel Sudhar Ghar was awarded the highest literary award 'Sahit Academy Award' in the year 2008 by the Sahitya Academy, New Delhi. His novels are prescribed as part of syllabus of M.A. (Punjabi) and B.A. (Punjabi) subject since 1990. Presently, novel Taftesh is a part of syllabus of B.A. Part III and novel 'Kaurav Sabha' of M.A. (Punjabi) of Punjab University, Chandigarh. It is also pertinent to submit that at least 4 research students of Punjabi literature have done research work on his novels and have obtained Ph.D. degrees. To popularize Punjabi language among the masses, he has written 8 books relating to criminal law, RTI Act etc. Two books in English namely 'Trial Management' and 'Pro Prosecution Law on the Custody and Bails' have also been published. Out of these two books, one has been published by the Govt. of Punjab and the other by National Police Academy, Hyderabad. It is further pertinent to submit that The petitioners do not have any vested interest in filing the instant Civil Writ Petition, and they are not likely to get any benefit from the relief claimed in the instant civil writ petition. The instant Civil Writ Petition falls within the parameters of the 2010- guidelines issued by this Hon'ble Court for maintenance of PILs, since it pertains to an issue of eminent public importance. The instant Civil Writ Petition also meets the requirement of the directions issued by this Hon'ble Court in CWP No. 15987 of 2013, since the issue under reference deserves immediate intervention by this Hon'ble Court and it is for that reason that no

representation has been given to the respondents before filing it. The income of petitioner no.1 is professional income, which is around Rs.22 lakhs per annum. The petitioner no.2 survives on pension and savings lying in bank account, as he retired as District attorney. His annual income is around Rs. 8 Lakhs . The latest income tax returns would also be produced by the petitioners before this Hon'ble Court during the course of hearing of the writ petition. The instant civil writ petition is therefore, maintainable as a PIL.

3. That with the aforesaid background, the petitioners may submit that as regards the official language for the Courts subordinate to the Hon'ble High Court, in the State of Punjab, Section 272 of the Criminal Procedure Code, 1973, lays down as under:-

“272. Language of Courts. – The State Government may determine what shall be, for purposes of this Code, the language of each Court within the State other than the High Court.”

Besides, repeated references have been made in various other provisions of Criminal Procedure Code, 1973, for utilizing such language as language of the Court which has been so prescribed by the State Government. For instance, Section 211 of the Code prescribes that charge shall be written in the language of the Court. Similarly, Section 265 lays down that every record (pertaining to less serious crimes) and Judgment shall be written in the language of Court. The provisions contained in Section 265 are reproduced hereunder for the sake of ready reference:-

“265. Language of record and judgment. – (1) Every such record and judgment shall be written in the language of the Court.

(2) The High Court may authorize any Magistrate empowered to try offences summarily to prepare the aforesaid record or judgment or both by means of an officer appointed in this behalf by the Chief Judicial Magistrate, and the record or judgment so prepared shall be signed by such Magistrate.”

4. That similarly, Section 277 of the Code of Criminal Procedure, 1973 which pertains to the language in which the evidence is to be recorded, lays down as under:-

“277. Language of record of evidence. – In every case where evidence is taken down under Section 275 or Section 276, -

(a) if the witness gives evidence in the language of the Court, it shall be taken down in that language;

(b) If he gives evidence in any other language, it may, if practicable, be taken down in that language, and if it is not practicable to do so, a true translation of the language of the Court shall be prepared as the examination of the witness proceeds, signed by the Magistrate or Presiding Judge, and shall form part of the record;

(c) where under clause (b) evidence is taken down in a language other than the language of the Court, a true translation thereof in the language of the Court shall be prepared as soon as practicable, signed by the Magistrate or Presiding Judge, and shall form part of the record:

Provided that when under clause (b) evidence is taken down in English and a translation, thereof in the language of the Court is not required by any of the parties, the Court may dispense with such translation.”

5. That Section 354 of the Code of Criminal Procedure Code, (pertaining to the language in which the Judgments are to be written), lays down as under:-

“354. Language and contents of judgment. – (1) Except as otherwise expressly provided by this Code, every judgment referred to in Section 353, -

(a) shall be written in the language of the Court;”

6. That Section 363 (1) and 363 (2) of the Code of Criminal Procedure Code, 1973 (pertaining to the language in which the copy of the decision is to be given to the accused) lays down as under:-

“363. Copy of judgment to be given to the accused and other persons. – (1) When the accused is sentenced to imprisonment, a copy of the judgment shall, immediately after the pronouncement of the judgment, be given to him free of cost.

(2) On the application of the accused, a certified copy of the judgment, or when he so desires, a translation in his own language if practicable or in the language of the Court, shall be given to him without delay, and such copy shall, in every case where the judgment is appealable by the accused, be given free of cost:”

7. That Section 364 of the Code of Criminal Procedure Code, 1973, pertaining to translation of the Judgment, lays down as under:-

“364. Judgment when to be translated. – The original judgment shall be filed with the record of the proceedings and where the original is recorded in a language different from that of the Court and the accused so requires, a translation thereof into the language of the Court shall be added to such record.”

8. That as regards the official language of the Civil Courts, it has been laid down in Section 137 of the Civil Procedure Code, 1908, as under:-

“137. Language of subordinate Courts. – The language which, on the commencement of this Code, is the language of any Court subordinate to a High Court shall continue to be the language of such subordinate Court until the State Government otherwise directs.

(2) The State Government may declare what shall be the language of any such Court and in what character applications to and proceedings in such Courts shall be written.

(3) Where this Court requires or allows anything other than the recording of evidence to be done in writing in any such Court, such writing may be in English; but if any party or his pleader is unacquainted with English, a translation into the language of the Court shall, at his request, be supplied to him; and the Court shall make such order as it thinks fit in respect of the payment of the costs of such translation.”

9. That with the aforesaid background, it is further pertinent to submit under Section 3-A of the Punjab Official Languages Act, 1967, as inserted by 2008 Amendment, lays down as under:-

“3.A (1) Use of Punjabi in Courts and Tribunals – In all Civil Courts and Criminal Courts, subordinate to the High Court of Punjab and Haryana, all Revenue Courts and Rent Tribunals or any other Court or Tribunal constituted by the State Government, work in such Courts and Tribunals shall be done in Punjabi.

Explanation.- For the purpose of this section, the words ‘civil court’ and ‘criminal court’ shall have the same meaning as respectively assigned to them in the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973.

(3) The concerned administrative departments of the State Government shall make arrangements to provide necessary infrastructure and training to the concerned staff, in order to ensure the use of Punjabi in in all courts and tribunals referred to in sub-section (1) within a period of six months from the date of commencement of the Punjab Official Language (Amendment) Act, 2008.”

A true copy of 2008 amendment the Punjab Official Language Act, 1967, is enclosed as **Annexure P-1** with the instant Civil Writ Petition.

10. That from a perusal of Annexure P-1 notification, it is clear that the provisions contained in Section 3-A (1) were to be automatically enforced on expiry of 6 months from the date of issuance of the aforesaid notification. Thus, the aforesaid notification having been issued on

5.11.2008 by the Department of Legal and Legislative Affairs of the Punjab Government, the aforesaid amendment became automatically enforceable on 5.5.2009 . However, despite the lapse of more than 8 years, the language of the Civil and Criminal Courts, including in the Courts of District & Sessions Judges, and other Revenue Courts continues to be language, in view of a letter dated 5.2.1991 issued by the Registrar of this Hon'ble Court (respondent No. 4), stating that the official language of the Civil and Criminal Courts in the Districts shall continue to be English. A true copy of the aforesaid letter dated 5.2.1991 is enclosed as **Annexure P-2** with the instant Civil Writ Petition.

11. That despite the 2008 amendment, which contains a mandate that Punjabi shall be the official language of the Courts subordinate to the Hon'ble High Court, the official language of all such Courts continues to be English, in view of the letter Annexure P-2 dated 5.2.1991, which has not been modified, despite the 2008 amendment to Punjab Official Language Act.

12. That it is further pertinent to submit that the Uttar Pradesh Government in the year 1970 (through Act No. 17) specified the official language of proceedings, decisions and decrees and orders to be written in Hindi language. Similarly, the Rajasthan Government has in the year 1983 (through Act No. 7) prescribed Hindi as official language of the District and Lower Courts, both Civil and Criminal) in the State of Rajasthan.

13. That although in the face notification, Annexure P-1, of 5.11.2008, no justification is required to be given for conducting the proceedings of

the Lower Courts (both Civil and Criminal Courts) in Punjabi language, yet it may be stated that most of the litigants before the District Courts and the Courts below, do not understand English, and therefore, do not know what is transpiring in the Court proceedings, since those are being conducted in English language only. They do not understand the import of the orders/Judgments, which are handed over to them, the same being written in English language. Thus, it is highly desirable that the proceedings of the Courts below should be recorded in the official language of Punjab, i.e. Punjabi language, for inspiring the confidence of the litigants on both the sides. This appears to be the precise reason for which the notification Annexure P-1 has been issued by the State of Punjab by prescribing Punjabi language as the official language of all the Civil and Criminal Courts subordinate to the Hon'ble High Court.

14. That the following substantial **Questions of Law** arise for the kind determination of this Hon'ble Court in the instant Civil Writ Petition:

- (a) Whether in view of Annexure P-1 notification dated 5.11.2008, which prescribes Punjabi as the official language of the Courts (Criminal and Civil Courts) subordinate to the Hon'ble High Court, the letter Annexure P-2 dated 5.2.1991 issued by the respondent No. 4 (the Registrar of this Hon'ble Court) is liable to be quashed, and set aside, since the said notification has lost its validity in view of the Annexure P-1 notification of 2008, issued by the Government of Punjab?
- (b) Whether in view of the facts and circumstances of the instant case and the contents of notification Annexure P-1

dated 5.11.2008 , a Writ of Mandamus is liable to be issued for directing the respondents to ensure that all the Civil and Criminal Courts subordinate to this Hon'ble Court must conduct their proceedings of all types in official language of the State (Punjabi language), including the passing of orders/Judgments as well as decrees, as the case be, in the official language i.e., Punjabi language?

15. That the petitioner has approached this Hon'ble Court without any undue delay.

16. That the petitioner does not have any other equally efficacious alternative remedy.

17. That the petitioner does not have any remedy of appeal, review or revision against the impugned orders.

18. That the petitioner has not filed any similar writ petition either in this Hon'ble Court or in the Hon'ble Supreme Court of India.

It is, therefore, respectfully prayed that this Hon'ble

Court may kindly be pleased to:-

- (i) relax the requirement of serving advance notice of the writ petition on the respondents, and also to relax the requirement to enclose the certified copies of annexures, and to permit the petitioner

to place on record the true typed copies, or the true photostat copies of various annexures, including those typed/ printed in single space, as the case be, on the record of the case;

(ii) **and to issue a Writ of Certiorari, for quashing the letter dated 5.2.1991 (Annexure P-2) issued by the Registrar of this Hon'ble Court, directing all the District and Sessions Judges in the State of Punjab to continue English as a official language of the Courts, the same being in violation of the provisions of the 2008 Amendment to the Punjab Official Language Act, 1967 (Annexure P-1), which mandates that on expiry of 6 months from the date of enforcement of the said amendment, only the Punjabi language shall be the official language of all the Courts in the State of Punjab;**

(iii) **And to issue a further Writ of Mandamus or any other appropriate writ, direction or order for directing the respondents no. 1 to 4 to ensure the implementation of the mandate contained in 2008 Amendment to the Punjab**

Official Language Act, 1967, Annexure P-1, by directing all the Civil and Criminal Courts (subordinate to the Hon'ble High Court, Revenue Courts and Rent Tribunals, and all other Tribunals set up by Punjab Government, to do all work in accordance with the said provision by using only Punjabi as official language, as read with various other relevant provisions contained in the Civil Procedure Code, 1908 as well as Criminal Procedure Code, 1973; and to provide the requisite infra structure to all such Courts and Tribunals for doing all work in Punjabi language;

And to restrain the operation of the letter, Annexure P-2 dated 5.2.1991, during the pendency of the instant Civil Writ Petition;

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP (PIL) No. _____of 2016

H. C. Arora, Advocate and another

.....Petitioners

Versus

DATES AND EVENTS

Dates	Events
5.2.1991	<p>The letter Annexure P-2, was issued by the respondent No. 4 (Registrar, Punjab and Haryana High Court) to all the District and Sessions Judges in the State of Punjab directing that in view of the provisions contained in Punjab Official Languages Act, 1967, the official language of the Civil and Criminal Courts shall be English.</p>
5.11.2008	<p>The Punjab Official Languages (Amendment) Act, 2008 was notified by the Department of Legal and Legislative Affairs, Punjab Government. In Section 1 (2) of the aforesaid Amendment Act of 2008, it was laid down as under:-</p> <p>“(2) it shall come into force on once, except the provisions of Section 3-A which shall come into force after the expiry of a period of 6 months from the date of its commencement.”</p> <p>Thus, the newly incorporated provisions of Section 3-A were to come into force with effect from 5.5.2009 (i.e., after expiry of a period 6 months from the date of aforesaid notification) as per aforesaid Section 3-A, the work in all Revenue Courts, Rent Tribunals or any other Court or Tribunal constituted by the State Government, in all Civil Courts and</p>

	Criminal Courts subordinate to the Hon'ble High Court shall be done in Punjabi.
11.5.2016	Hence, the instant Civil Writ Petition by way of a PIL, since the respondents have failed to ensure the implementation of the mandate contained in Section 3-A (1) of the Punjab Official Languages (Amendment) Act, 2008, and the work in the Civil and Criminal Courts subordinate to Hon'ble High Court of Punjab and Haryana is being done in English, in view of the letter Annexure P-2 dated 5.2.1991, which has otherwise become redundant in view of the 2008 amendment, vide notification Annexure P-1.

Place: Chandigarh

(H.C. Arora)

Dated: 11.5.2016

PETITIONER NO-1 IN PERSON

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP (PIL) No. _____ of 2016

H. C. Arora, Advocate and another

.....Petitioners

Versus

State of Punjab and others

...Respondents

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Sr. No.	Particulars	Dates	Pages	Court Fee
1.	Dates and Events	11.5.2016	A-B	--
2.	Civil Writ Petition (PIL)	11.5.2016	1-16	100.00
3.	Affidavit	11.5.2016	17-19	--
4.	Annexure P-1 (2008 Amendment)	5.11.2008	20-21	02.00
5.	Annexure P-2 (Letter)	5.2.1991	22-23	02.00
6	Power of Attorney of Petitioner No. 2	11.5.2016	24	03.00
TOTAL				107.00

NOTES:

1. No caveat application has been filed.
2. Law Points have been stated at page no. 12 in para no. 14 of the civil writ petition.
3. Acts and Statutes: Section 3-A (1) of the Punjab Official Languages (Amendment), 2008 read with (1) Section 137 of Civil Procedure Code, 1908 and (iii) Section 272 of Criminal Procedure Code, 1973.
4. Any similar case: NIL

Place: Chandigarh
Dated: 11.5.2016

(H.C. Arora))
PETITIONER NO-1 IN PERSON

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP (PIL) No. _____ of 2016

H. C. Arora, Advocate and another

.....Petitioners

Versus

State of Punjab and others

...Respondents

COURT FEE

Place: Chandigarh
Dated: 11.5.2016

(H.C. Arora)
PETITIONER NO. 1 IN PERSON

(i) and to grant any other relief to which the petitioners may be found entitled by this Hon'ble Court in public interest, in the facts and circumstances of the instant case.

Place: Chandigarh

Dated: 11.5.2016

(H.C. ARORA)

PETITIONER NO.1

(MITTAR SAIN GOYAL)

PETITIONER NO.2

VERIFICATION:

VERIFICATION:

Verified that the contents of para no. 1 to 10 and those of para no. 12 to 15 of this writ petition are true and correct to my knowledge and those of para no. 11 are believed to be true and correct on the basis of legal advice received from Counsels. No part of it is false or incorrect, and nothing material has been kept concealed there from.

Place: Chandigarh

Dated: 11.5.2016

(H.C. ARORA)

PETITIONER NO.1

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP (PIL) No. _____ of 2016

H. C. Arora, Advocate and another

.....Petitioners

Versus

State of Punjab and others

...Respondents

**Affidavit of H.C. Arora, Advocate, s/o late Sh. Sunder Dass, r/o H.No.
2299, Sector 44-C, Chandigarh.**

I, the above mentioned deponent solemnly affirm and declare as under:-

1. That the deponent has, along with petitioner no.2, filed the accompanying writ petition in this Hon'ble Court by way of an PIL.

2. That the petitioner No. 1 is an Advocate practicing in the Hon'ble Courts at Chandigarh. The petitioner no. 1 has authored several books in Punjabi , which include the Gathas of various martyrs namely (i) Gatha Shaheed Bhagat Singh; (ii) Gatha Shaheed Udham Singh; (iii) Gatha Shaheed Madan Lal Dhingra; (iv) Gatha Shaheed Kanshi Ram and Gadar Laher; (v) Gatha Shaheed Kartar Singh Sarabha and Gadar Laher. The petitioner has also authored three other books of poems in Punjabi, namely, (i) Jung Jari Hai; (ii) Peeran Nashiyan Dian, a book wholly dedicated against drug addiction & (iii) Taria Di Duniyan, a book containing poems meant for children only. Thus, the petitioner No 1 is wholly devoted to propagation and development of Punjab language. As regards the petitioner No. 2, he served in the Prosecution Department of Government of Punjab for 34 years and retired as District Attorney. He is a Punjabi Novelist. He has written 6 Novels and two books of short

stories. His novel Sudhar Ghar was awarded the highest literary award 'Sahit Academy Award' in the year 2008 by the Sahitya Academy, New Delhi. His novels are prescribed as part of syllabus of M.A. (Punjabi) and B.A. (Punjabi) subject since 1990. Presently, novel Taftesh is a part of syllabus of B.A. Part III and novel 'Kaurav Sabha' of M.A. (Punjabi) of Punjab University, Chandigarh. It is also pertinent to submit that at least 4 research students of Punjabi literature have done research work on his novels and have obtained Ph.D. degrees. To popularize Punjabi language among the masses, he has written 8 books relating to criminal law, RTI Act etc. Two books in English namely 'Trial Management' and 'Pro Prosecution Law on the Custody and Bails' have also been published. Out of these two books, one has been published by the Govt. of Punjab and the other by National Police Academy, Hyderabad. It is further pertinent to submit that The petitioners do not have any vested interest in filing the instant Civil Writ Petition, and they are not likely to get any benefit from the relief claimed in the instant civil writ petition. The instant Civil Writ Petition falls within the parameters of the 2010- guidelines issued by this Hon'ble Court for maintenance of PILs, since it pertains to an issue of eminent public importance. The instant Civil Writ Petition also meets the requirement of the directions issued by this Hon'ble Court in CWP No. 15987 of 2013, since the issue under reference deserves immediate intervention by this Hon'ble Court and it is for that reason that no representation has been given to the respondents before filing it. The income of petitioner no.1 is professional income, which is around Rs.22 lakhs per annum. The petitioner no.2 survives on pension, and savings lying in his bank accounts, as he retired as District attorney. His annual income is

around Rs.8 Lakhs . The latest income tax returns would also be produced by the petitioners before this Hon'ble Court during the course of hearing of the writ petition. The instant civil writ petition is therefore, maintainable as a PIL.

3) That the contents of paras No. 1 to of the accompanying writ petition are true and correct to the best of my knowledge and belief.

Place: Chandigarh

Deponent

Dated: 11.5.2016

Verification:

Verified that the contents of paras No. 1 and 2 of this affidavit are true and correct to the best of my knowledge. No part of it is false and nothing material has been concealed therefrom.

Place: Chandigarh

Deponent

Dated: 11.5.2016
