
(1998) 11 P&H CK 0118

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 15250 of 1998 and Civil Miscellaneous No. 26862 of 1998

Amrik Singh

APPELLANT

Vs

District Development and Panchayat Officer and Others

RESPONDENT

Date of Decision : 25-11-1998

Acts Referred:

Punjab Panchayati Raj Act, 1994 — Section 200

Citation : AIR 1999 P&H 113 : (1999) 121 PLR 417 : (1999) 1 RCR(Civil) 483

Hon'ble Judges : N.C. Khichi, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Jagdev Singh Bhandohal, for the Appellant; M.C. Berry, DAG, for Nos. 1 to 3 and Ritu Sood and Navjot Chadha for No. 4, for the Respondent

Final Decision : Allowed

Judgement

Jawahar Lal Gupta, J.—The petitioner--an elected Sarpanch--is aggrieved by the order dated August 31, 1998 by which respondent No. 3 has been applied as an Administrator to run the affairs of the Panchayat. The petitioner complains that the order has been passed "under the influence of respondent No. 2 Shri Swaran Singh, District President, Shiromahi Akali Dal (Badal), who belongs to the same village. "He further alleges that he belongs to the Congress Party and had defeated the candidates supported by respondent No. 4. The authority acting under the influence of respondent. No. 4 has appointed the Administrator in a totally arbitrary manner without any reason. The petitioner complains that no opportunity even to perform the functions and prove suitability for the offence was given. In fact, even the charge of the Panchayat had not been handed over. He consequently, prays that the order dated August 31, 1998 -- a copy of which has been produced as Annexure PI with the writ petition be quashed.

2. A written statement has been filed on behalf of the respondents Nos. 1 and 2 by the District Development and Panchayat Officer. It has been, inter alia, alleged that a "representation regarding the involvement of petitioner in some cases of

corruption and cheating pending against him was also received by the respondents." According to the respondents, a meeting of the Panchayat was held on August 25, 1998. The quorum was not complete. 4 Panches were against the Sarpanch and out of total of 7, only 3 were in his favour. Consequently, the third respondent had recommended that an Administrator be appointed- A separate reply has been filed by respondent No. 3. No reply has been filed by respondent No. 4.

3. Learned counsel for the parties have been heard.

4. It is the admitted position that the election was held on June, 21, 1998. The petitioner was elected. He was administered the oath of office on July 27, 1998. It was after effort that the charge was allegedly given to him on August 35, 1998. Assuming it to be so, not even a week had elapsed when the impugned order was passed. The Panchayat had virtually no chance to do anything. It has not been shown that an agenda for the meeting of the Panchayat was ever issued or even date for a meeting was fixed. Yet, it has been observed that the quorum of the Panchayat is not complete and that four persons are against the petitioner. Still further Section 200 of the Punjab Panchayati Raj Act, 1994, inter alia, provides that procedure which has to be followed in case of default in performance of duties by the Panches. It is not disputed that the procedure as contemplated u/s 200 of the Punjab Panchayati Raj Act was not even invoked much less than followed. In this situation the suggestion on behalf of the petitioner that the order was passed on extraneous considerations and that it had been passed under the influence of respondent No. 4, does not appear to be unfounded. In fact, respondent No. 4 has not even denied the allegations levelled against him.

5. On the respondents own showing the charges was given to the petitioner on August 25, 1998. On the same day the Block Development and Panchayat Officer is alleged to have sent a communication vide letter No. 1087 alleging that the quorum is not complete. A recommendation was made that the third respondent be appointed as Administrator. Why? When was the petitioner found wanting and on what basis? There is no answer. Action is absolutely arbitrary.

6. In view of the above, the impugned order is set aside. The petitioner shall be entitled to his costs, which are assessed at Rs. 10,000/-. The third respondent shall hand over the charge to the petitioner within two days from today.

The petition stands disposed of.