
(2009) 12 P&H CK 0096
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 20194 of 2009

Amrik Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 23-12-2009

Acts Referred:

Punjab Panchayati Raj Act, 1994 — Section 216, 216(2), 216(3)

Citation : (2010) 159 PLR 601 : (2010) 2 RCR(Civil) 42301 : (2009) 6 SLR 66

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

K. Kannan, J.—The writ petition challenges an order passed by the Secretary to the Government, Punjab, on 12.11.2008 and under terms of which, the Secretary has observed that an order passed already on 03.08.2006 seeking for recovery of Rs. 1,31,211/- could not have been done without notice and he has hastened to accept the petition filed by the gram panchayat. Simultaneously, the impugned order directs that the Block Development and Panchayat Officer shall recover the loss to the gram panchayat by initiating proceedings u/s 216 of the Punjab Panchayati Raj Act against the 2nd respondent therein, who is the petitioner before this Court.

2. Section 216 sets out the procedure for fixing a liability of members of panchayats and also sets out a procedure for recovery.

Clause (2) of the said Section reads as follows:

The Block Development and Panchayat Officer concerned may, on the application of a Gram Panchayat or otherwise, and after giving the member concerned an opportunity to explain, assess, by order, in writing the amount due from him in account of such loss, waste or misapplication;

Provided that:

(a) where such member happens to be the Chairman or a member of the Panchayat Samiti, the proceedings under this sub-section shall be taken by the District Development and Panchayat Officer;

(b) where such member happens to be the Chairman, Vice-Chairman or a member of the Zila Parishad, the proceedings under this subsection shall be taken by the Deputy Director.

3. The said provision contemplates an opportunity to explain and assess through an order in writing the amount which is due from a member of the panchayat. The said Section also provides for a grievance redressal mechanism through Sub-section (3) which enables a person aggrieved by an order made under Sub-section (2), may within a period of thirty days from the date of the order. The impugned proceedings while directing the initiation of proceedings u/s 216 is not final in any way.

4. On the other hand, it merely initiates an action and the petitioner will have adequate opportunity to explain that he is not so liable and an order could be passed only after giving such notice. There is no warrant for an inference that the impugned proceedings itself cast a finally determined liability. Even if such an assumption should be made, the petitioner will still have a remedy u/s 216(3). The writ petition is premature on wrong assumption that liability has already been cast on the petitioner. The writ petition is dismissed as such.