

(2012) 07 P&H CK 0291

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 20501 of 2011

Balbir Kaur and another

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 03-07-2012

Acts Referred:

Citation : (2012) 168 PLR 421

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Advocate : D.S. Gurna, for the Appellant; Yatinder Sharma, D.A.G., Punjab for the State and Mr. Onkar Rai, for the Respondent

Judgement

Ranjit Singh, J.—Petitioner No. 1 being ex-Sarpanch along with one Hari Om Sharma has approached this Court for quashing of order No. 4651-52, dated 14.10.2011 (Annexure P-4) passed by respondent No. 2. The issue relates to the Committee constituted in pursuant to the notification issued by the Government of Haryana for looking after the water supply and sanitation in the village. With an object to implement State wide new approach in the rural water supply and sanitation section of the State, the Gram Panchayat Water Supply and Sanitation Committee (GPWSC) is notified by the Government. The objectives of GPWSC are to manage water supply and sanitation activities in the village including planning, construction, procuring, managing operation and maintaining all water supply and sanitation facilities and services in the village. As per the notification GPWSC was to consist of minimum of 11 members with maximum going upto 21 depending upon the village population. Sarpanch was to be ex-officio Chairman. The other members of GPWSC besides Sarpanch are three Panches, who shall also be ex-officio members. Remaining members are to be directly selected by the Gram Sabha and selected members are to be 1/3rd women, 1/5th S.C. and 1/3rd from BPL families. The tenure of all ex-officio members i.e. Sarpanch and Panches was made co-terminus with their holding of office of Sarpanch and Panches respectively. All other members selected by Gram Sabha were to have a

fixed tenure of two years and were made eligible for reselection by Gram Sabha.

2. Petitioner No. 1 being Sarpanch was the ex-officio Chairman of GPWSC, which was constituted on 27.9.2008. After lapse of two years, the process of re-election/selection was commenced on 18.1.2011 and the GPWSC was elected on 22.1.2011 by Gram Sabha in its meeting presided over by the Junior. Engineer of Department of Water Supply and Sanitation. All the members of the previous Committee were re-elected except one replacement, whereby Smt. Santosh Kumari was replaced with Smt. Meera. The petitioner being Sarpanch was the ex-officio Chairman. Subsequently, respondent No. 5 has become the new Sarpanch. By virtue of his office, he has become ex-officio chairman of the Committee. It is also alleged that he reconstituted the Committee. Counsel for the petitioners would contest this action of respondent No. 5 on the ground that he had no power to do so and this could only be done by Gram Sabha in the events as are mentioned in the notification in this regard. Subsequently, respondent No. 2 has conveyed the impugned order to petitioner No. 1 and to respondent No. 5 stating that GPWSC is to be elected within a period of two months, which order has now been challenged through the present writ petition.

3. The reply has been filed on behalf of the State by Executive Engineer, Water Supply and Sanitation Division No. 1, Ludhiana. By way of preliminary submission, it is disclosed that new GPWSC was elected in the village on 22.1.2011 by the Gram Sabha in its general body meeting, which was held in the presence of Junior Engineer of the department. Subsequently, the previous Sarpanch's appointment was denotified and the new Sarpanch started working as Ex-Officio Chairman of the GPWSC. It is stated that there was non-cooperation between the new Sarpanch and the Committee for which he has constituted new GPWSC on 18.8.2011 of his own without calling Gram Sabha meeting and without inviting Junior Engineer of the department, who was technical member of the Committee and was to preside over such an election process in the Gram Sabha. The department has been assisting to supply water to the village New Raj Guru Nagar in spite of the working of the GPWSC is stated to have been stalled by the new Sarpanch. Inquiry in this regard has also been held by the Executive Engineer, Water Supply and Sanitation, Division No. 2, Ludhiana, and the report in this regard is annexed with the reply as Annexure R-5. It is stated that GPWSC constituted on 22.1.2011 did not have the confidence and backing of the Panchayat and there was a non-cooperation between the GPWSC constituted and the newly elected Sarpanch. It is noted that working of the Committee has been stalled.

4. Counsel for the petitioner has taken me through the notification vide which this Committee has been constituted. He is justified in making a grievance about manner and method adopted by respondent No. 5 to reconstitute the Committee. The tenure of the Committee is for two years and since the Committee was re-elected on 22.1.2011, it was bound to continue for a period of two years in terms of the fixed tenure provided in the notification. Counsel has rightly not made any

grievance for the new Sarpanch to take over as a Chairman of the Committee, which is in terms of the notification as issued by the Government. Action of respondent No. 5 in reconstituting GPWSC is totally unjustified and illegal and cannot be sustained and the same is set aside. The question then would arise as to what arrangement should now be made. Rightly or wrongly, the department is of the view that the function of the Committee has been stalled because of non-cooperation between the Chairman and the other members. Ordinarily, the other members would have this tenure as they were elected by Gram Sabha. If they have done a good work, they can still be assigned this task by Gram Sabha on being re-selected. After all it is the welfare of the village which is the issue. It would be appropriate to direct the department to hold fresh meeting of Gram Sabha to elect a Committee in terms of the notification. Needless to mention that the Sarpanch would continue to be ex-officio Chairman of the Committee. Let the meeting of the Gram Sabha be called within a period of one month from today to elect this committee. The Committee so selected, accordingly, would be allowed to function for the tenure as is given in the notification. The writ petition is, accordingly, disposed of.