
(2015) 01 P&H CK 0300
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 25488 of 2014

Baljinder Kaur

APPELLANT

Vs

Director, Panchayats, Punjab and Others

RESPONDENT

Date of Decision : 30-01-2015

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Punjab Panchayati Raj Act, 1994 — Section 200(1), 24(3)

Citation : (2015) 3 RCR(Civil) 1026

Hon'ble Judges : Paramjeet Singh, J

Bench : Single Bench

Advocate : A.D.S. Jattana, for the Appellant; Deepa Singh, A.A.G, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Paramjeet Singh, J—Instant writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the order dated 31.10.2014 (Annexure 24) passed by respondent No. 1-Director, Panchayats, Punjab whereby respondent No. 4-Avtar Singh, Panchayat Officer has been appointed as administrator under Section 200(1) of the Punjab Panchayati Raj Act, 1994 (for short, "the 1994 Act"). I have heard learned counsel for the parties and perused the record.

2. It has been stated by learned State counsel and learned counsel for respondents No. 5 to 8 that tenure of the administrator has expired on 31.12.2014. Respondent No. 4 has also filed affidavit dated 22.01.2015 mentioning that his tenure as administrator has expired on 31.12.2014 and he has not withdrawn any grant amount from the bank account or spent in the capacity of Administrator, Gram Panchayat, Pididi.

3. In view of above, prayer of the petitioner qua appointment of administrator has become infructuous. Now the Gram Panchayat shall proceed in accordance with law.

4. Learned counsel for the petitioner contended that there are total seven panches excluding Sarpanch. Three panches and Sarpanch were on one side whereas four panches were on the other side. In view of Section 24(3) of the 1994 Act, Sarpanch has a right to cast a vote in case of equality of votes.

Section 24(3) of the 1994 Act reads as under:

"24(3) All questions shall, unless otherwise specifically provided, be decided by a majority of votes of the present and voting and the Sarpanch or Panch presiding, as the case may be, unless he refrains from voting, shall give his vote before declaring the number of votes for and against a question and in the case of equality of votes, he may give his casting vote."

5. From perusal of Section 24(3) of the 1994 Act, it is clear that in addition to cast his vote before declaring the number of votes for and against an agenda, the Sarpanch has a right of casting vote in the event of equality of votes. In view of this, I am satisfied with the contention of learned counsel for the petitioner. Since four members including Sarpanch are on one side and four members are on the other side, the Sarpanch has a right of casting vote and the same was used by the Sarpanch but it has not been taken into consideration by the authorities. It would be apposite to mention here that the authorities should not unnecessarily interfere in the functioning of the Panchayat, when it is proceeding in accordance with law. It is made clear that if such an instance comes to the notice of this Court in future, serious notice thereof will be taken and appropriate order will be passed.

6. Learned counsel for the petitioner contended that the petitioner has already submitted representation (Annexures P-22) making a grievance that Sarpanch and Panches are elected representatives but respondents No. 5 to 8 had not attended the meeting but no decision has been taken.

7. So far as this contention is concerned, this Court, at this stage, instead of passing order on merit, deems it fit that direction can be issued to the Director, Panchayats, Punjab to take prompt action and pass appropriate order on the application/representation (Annexure P-22) in accordance with law within two months from the date of receipt of certified copy of this order. Ordered accordingly. Whatsoever order is passed on the application (Annexure P-22) shall be communicated to the petitioner.

8. Disposed of in the aforementioned terms. Copy of this order be sent to the Commissioner and Secretary, Govt. of Punjab, Department of Panchayats, Chandigarh to ensure that such an interference, as happened in present case, should not occur.