

(1992) 05 P&H CK 0080

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 11269 of 1991

Balwant Singh

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 08-05-1992

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Punjab Village Common Lands (Regulation) Act, 1961 — Section 2, 7

Citation : (1993) 105 PLR 107

Hon'ble Judges : Jawahar Lal Gupta, J

Bench : Single Bench

Advocate : J.S. Wasu, R.L. Batta, Gobinder Singh Sandhu, K.G. Chaudhary and J.C. Nagpal, Ajay Tewari, C.L. Sharma, Rajiv Kataria, Ravinder Chopra, Surjit Singh and G.S. Bhatia, for the Appellant; M.L. Sarin, A.G. and Charu Tuli, Alka Sarin, Jasbir Singh, P.C. Mehta, Viney Mittal, Amit Rawat, Gurcharan Singh, I.P.S. Kohli, Naresh Prabhakar and R.B.S. Chahal, for the Respondent

Judgement

Jawahar Lal Gupta, J.—All the 163 petitions viz. C.W.P. No. 7127, 7916, 7917, 7920 to 7922, 8197, 8500, 8653, 9103, 9202, 9241, 9411, 9631, 9647, 10162, 10416, 10643, 10910, 10926, 11269, 16561, 11875, 11876, 11895, 11915, 12412, 12565, 12569, 12613, 12621, 12641, 12645, 12667, 12795 to 12797, 12775, 13000, 13001, 13004, 13165, 13423, 13548, 13551, 13552, 13740, 13867 to 13869, 141162, 14163, 14066, 14235, 14304, 14332, 14333, 14387, 14419, 14432, 14434 to 14442, 14462 to 14466, 11564, 14713, 14842, 14942, 14942, 15145 to 15192, 15203, 15289, 15409, 15405, 15488, 15610, 15611, 15784, 15894, 15923, 15955, 16066, 16058, 16066, 16070, 16159, 16265, 16680, 16691, 16726 to 16728, 16734, 16817, 16915, 16917, 17010, 17124, 17125, 17154, 17157, 17167 to 17170, 17232, 17332, 17322, 17381, 17505, 17509, 17672, 17676, 17725, 17773, 18016, 18018, 18024, 18049, 18076, 18353, 18406, 18604, 18714, 18792, 18821, 18822, 18917, 19018 and 19173 of 1991, 11544, 14 to 14740, and 14792 of 1989, 15725 of 1990 and 133, 230, 316, 401, 402, 476, 742, 1000, 1006 & 1163 of 1992 can be disposed of by oen

common order. In these petitions the vires of Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as "the Act") have been challenged. Since the arguments have been mainly addressed in C.W.P. No. 11269 of 1991, the facts, as stated therein, may be briefly noticed.

2. The petitioner is a resident of village Neelpur, tehsil Rajpura, district Patiala. On November 24, 1990, the Gram Panchayat filed an application u/s 7 of the Act for eviction of the petitioner from the land measuring 2 biswas comprised in Khasra No. 95/8. A copy of this application has been produced as Annexure P.I. The petitioner contested this application and claims that he has been in possession of half of the land in dispute, Viz. 1 biswas which was allotted to him during the consolidation proceedings and that the Panchayat had nothing to do with it. While the matter was pending before the District Development and Panchayat Officer, Patiala, who exercises the powers of the Collector, the petitioner has filed the present petition. The primary ground raised in the petition is that the provisions of Section 7 are beyond the legislative competence of the Punjab State and that it confers totally arbitrary, unregulated and unbridled powers on the Collector. It has been further claimed that the conferring of the powers on the District Development and Panchayat Officers is contrary to the principles of natural justice and the spirit of the Act. The Panchayat Officers have been allowed to be judges to their own cause and they cannot be expected to be judges with an open mind. Copy of the notification issued by the Punjab Government by which the powers of the Collector under the Act have been conferred on the District Panchayat Officers has been produced as Annexure P.2. Prayer for declaring Section 7 of the Act as void and that the proceedings initiated against the petitioner are without jurisdiction as also for quashing of the notification conferring the powers of the Collector on the District Development and Panchayat Officers has been made.

3. Even though the vires of a provisions of the Act have been challenged, yet no written statement has been filed by the State of Punjab. However, a written statement has been filed on behalf of the Gram Panchayat, which has been impleaded as respondent No. 2. It has been averred that the petitioner had never been given the land in dispute either on lease, batai or contract and he has no share in this land. It has been further averred that the land was never allotted to the petitioner and was, in fact, given by the Panchayat to one Mr. Tarlok Singh for his personal use till he lived in the village. The said Tarlok Singh left the village about ten years back and after that the petitioner illegally occupied the land. It has been further stated that the provisions of Section 7 are intra-vire and the section does not confer any arbitrary, unguided or unbridled powers.

4. Learned counsel for the petitioners have primarily contended that Section 7 confers totally unguided powers on the Collector. The provision has been challenged as being ultra-vires Article 14 of the Constitution. It has been further contended that even the provisions of the rules framed u/s 15 of the Act do not provide sufficient guidelines or safeguards so as to save the provision. Further

more, the counsel also contend that the action of the State Government in conferring the powers of the Collector on the District Development and Panchayat Officers is a colourable exercise of power and beyond the provisions of the Act. It has also been contended that the District Development and Panchayat Officers cannot act fairly and impartially and as such the notification issued by the Government is vitiated. Mr. M.L. Sarin, appearing for the State Government, has contended that the provisions of Section 7 are not beyond the legislative competence of the State Legislature and do not confer arbitrary or unguided powers on the Collector. He has further submitted that the District Development and Panchayat Officers exercise various statutory powers under the Punjab Gram Panchayat Act, 1952. Keeping in view the fact that they are well-versed in not only matters relating to Panchayats but also in all the matters connected therewith, the State Government has conferred powers on them. He has further submitted that these officers cannot be accused of any bias.

5. In order to examine the respective contentions, it is apt to notice the relevant provisions of the Act and the Rules. These are:-

"Section 2(a):- "Collector" means the Collector of the district and includes any other officer appointed by the State Government for performing the functions of the Collector under this Act," "Section 2 (aa): "Commissioner" means the Commissioner of the division and includes any other officer not below the rank of a Joint Director, Panchayats, appointed by the State Government for performing the functions of the Commissioner under this Act."

"Section 2(e): "Panchayat" means a Gram Panchayat constituted under the Punjab Gram Panchayat Act, 1952;"

"Section 7: Power to put the Panchayat in Possession of Shamilat Deh.

1) The Collector shall, on application made to him by a Panchayat or by an officer, duly authorised in this behalf by the State Government by a general or special order, after making such enquiry as he may think fit and in accordance with such procedure as may be prescribed, put the Panchayat in possession of the land or other immovable property in the Shamilat Deh of that village which vests or as deemed to have been vested in it under this Act and for so doing the Collector may exercise the powers of a revenue court in relation to the execution of a decree for possession of land under the Punjab Tenancy Act, 1887.

2) An appeal against the order of the Collector under Sub-section (1) shall lie to the Commissioner and the period limitation for such an appeal shall be sixty days from the date of the order appealed against."

"Section 11:- Decision of claims of right, title or interest in Shamilat Deh.

1) Any person claiming right, title or interest in any land vested or deemed to have been vested in a Panchayat under this Act, or claiming that any land has not so vested in a Panchayat, may submit to the Collector, within such time, as may be prescribed, a statement of his claim in writing and signed and verified in

the prescribed manner and the Collector shall have jurisdiction to decide such claim in such manner as may be prescribed.

2) Any person or a Panchayat aggrieved by an order of the collector made under-Sub-section (1), may, within sixty days from the date of the order, prefer an appeal to the Commissioner in such form and manner as may be prescribed and the Commissioner may, after hearing the appeal, confirm, vary or reverse the order appealed from and may pass such order as he deems fit."

6. Further, u/s 15 of the Act, the rules called "The Punjab Village Common Lands (Regulation) Rules, 1963 have been framed. Rule 20, 21 and 21-A of the rules read as under:-

"20. Putting Panchayat in Possession

1) When an application u/s 7 is received by the Collector he shall issue in the manner hereinafter provided a notice in written calling upon all persons concerned to show cause why an order to put the Panchayat in possession of the land or other immovable property vested or deemed to have been vested in the Panchayat under this Act, should not be made.

2) The notice shall:-

(a) specify the land or other immovable property in respect of which an order is proposed to be made under Sub-rule (1);

(b) specify the grounds on which the order to put the Panchayat into possession of the land or other immovable property is proposed to be made; and

(c) require all persons concerned that is to say, all persons who are, or may be, in occupation of the land or other immovable property specified in the notice, to show cause, if any, against the proposed order on or before the date to be specified in the notice, being a date not earlier than ten days from the date of issue thereof.

(3) The Collector shall cause the notice to be affixed on a conspicuous part of the Panchayat Ghar or any other place used as office by the Panchayat and at some conspicuous place of the estate in which the land or other immovable property specified in the notice is situate."

"Rule 21: Eviction.

1) If, after considering the cause, if any shown by any person in pursuance of notice under rule 20, and any evidence that may be produced and after giving the parties a reasonable opportunity of being heard, the Collector is satisfied that the land or other immovable property specified in the notice served under rule 20 or any part thereof is in unauthorised occupation, the Collector may on a date to be fixed for the purpose make an order of eviction for reasons to be recorded therein, directing that the land or other immovable property, or any part thereof, as the case may be shall be vacated by all persons who may be in unauthorised

occupation thereof, and cause a copy of the order to be affixed on the outer door of a Panchayat Ghar and at some other conspicuous place of the estate in which the land or other immovable property and may for that purpose, use such force as may be necessary."

"Rule 21-A: Decision of claim of right, title or interest in Shamilat Deh.

1) Any person claiming a right, title or interest in any land vested or deemed to have been vested in the Panchayat may submit an application in the form of a statement duly signed and verified in the manner provided in the Code of Civil Procedure, 1908, supported by a copy of the revenue record within thirty days from the date of the accrual of cause of action of the Collector.

2) The Collector shall, after receiving the application, send notice to the Panchayat concerned along with a copy of application directing it to appear before him on the date fixed for the purpose. The Collector shall decide the matter, after affording a reasonable opportunity to the parties to substantiate their respective claims."

7. The first question that arises for consideration is--Are the provisions of the Act beyond the legislative competence of the State Legislature? For an answer to this question, one has to necessarily refer to the relevant entry in List-II of the Seventh Schedule. It reads as under:-

"Entry 18. Land, that is to say, right in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land, land improvement and agricultural land, land improvement and agricultural loans; colonization."

8. It is well settled that the entries in the three lists constitute legislative heads and are of an enabling character. The entries have to be given the widest meaning. Each word can be reasonably extended to "all ancillary or subsidiary matters". In this view of the matter, entry 18 would permit the State Legislature to provide for every thing concerning land. Nothing has been either averred in the petition or submitted at the stage of arguments to show that the provisions of the Act do not fall within the scope of entry 18.

9. The Act was enacted to consolidate and amend the law regulating the rights in Shamilat-deh and Abadi-deh. It falls squarely within the ambit of entry 18 and was thus wholly within the legislative competence of the State Legislature. The contention raised in this behalf is consequently rejected.

Does Section 7 confer totally unguided & unbridled Powers?

A perusal of the various provisions of the Act shows that all land falling within the definition of Shamilat-deh as given in Section 2(g) comes to vest in the Panchayat. Further all questions relating to the nature of the land and its vesting in the Panchayat, can be agitated only in the forum provided under this Act. Section 7 has been enacted with the sole object of providing a speedy remedy to

the Panchayat for the purpose of getting possession of land or other immovable property in the Shamilat-deh which vests or is deemed to have vested in it. However, it provides that the Collector shall decided "after making such enquiry as he may think fit and in accordance with such procedure as may be prescribed." Accordingly, the safeguard of holding an enquiry by following the prescribed procedure has been provided by the Act. Still further a reference to the rules shows that a show-cause notice has to be given to the person who is in possession before an order for his eviction can be passed. In this notice, the particulars of the land have to be mentioned; the grounds on which it is proposed to put the Panchayat into possession have to be disclosed at least 10 days time for showing cause has to be given. It is thus apparent that the provision ensures a due and a reasonable opportunity. Similarly, even in cases where question of title arises, the procedure of giving due and a reasonable opportunity to the person, who is likely to be affected, has been provided for. Above all, the Collector is not the final authority. His order can be challenged in appeal.

10. On an examination of the various provisions, it is clear that the Collector has to grant a due and a reasonable opportunity to a person before any order adverse to his interest can be passed. As such, it is difficult to hold that the power is arbitrary, unguided or unbridled. The provision has in built check and is in accord with the legislative policy contemplated by the Legislature.

11. It was then contended that the notification vesting the powers of the Collector in the District Development and Panchayat Officers is beyond the provisions of the Act. Section 2(a) which defines "Collector" itself contemplates that the Government is competent to appoint "any other officer for performing functions of the Collector under this Act." The power is obviously there. The notification (Annexure P.2) is clearly referable to the provisions of Section 2 of the Act. Consequently, the contention has no merit and is rejected.

12. Nor is it possible for me to hold that the District Development and Panchayat Officer has any kind of bias. The old maxim that you cannot be a Judge in your own cause is well known. It only means that a Judge should not have a personal interest in the matter. The District Development and Panchayat officer cannot be accused of any personal interest in any dispute concerning land or other immovable property which arises before him. He has to decide the dispute in accordance with the prescribed procedure after giving an opportunity to the person who is likely to be affected.

13. A reference to the provisions of Section 2(cc) of the Punjab Gram Panchayat Act, 1952 (hereinafter referred to as "the Panchayat Act") shows that the District Development and Panchayat Officer exercises the powers of the Collector under the Panchayat Act. Even under the present Act the powers have been conferred on the same authority. The District Development and Panchayat Officer holds a fairly senior position. He has to act in quasi-judicial manner. His order is subject to reconsideration in appeal. In such a situation, the plea that the provision is

vitiated on account of bias or that it is a colourable exercise of power cannot be sustained.

14. Accordingly, it is held that the provisions of Section 7 are legal and valid.

15. In certain cases, learned counsel for the parties had made submissions to challenge different orders. It would be appropriate to separately consider and decide those cases.

C.W.P. No. 10162 of 1991.

16. The first of these cases is C.W.P. No. 10162 of 1991. Mr. J.C. Nagpal, learned counsel for the petitioners has pointed out that vide order dated June 17, 1987 (annexure P.1), the Collector had dismissed the application moved by the Gram Panchayat u/s 7 of the Act. Thereafter, the Panchayat filed an appeal before the Additional Director, Panchayat, exercising the powers of Commissioner. According to the learned counsel, the appeal had been accepted without any notice to the writ petitioners. Learned counsel has further drawn my attention to the specific averment in paragraph 5(A) of the petition to show that the petitioners "were not served with any notice of appeal." He has further pointed out that Mr. T.S. Bhamra, whose presence has been recorded in the order passed by the Commissioner had never been engaged by the petitioners and, therefore, the order passed by the Commissioner is wholly violative of the principles of natural justice.

No written statement has been filed on behalf of the Commissioner. However, reply has been filed on behalf of the Gram Panchayat. The specific averment, as referred to above, that no notice had been served on the petitioners has not been denied. Further a perusal of the report dated July 1, 1991, submitted by the law officer of the Office of Commissioner shows that "there is no vakalatnama produced by Sh. Tara Singh Bhamra, Advocate." It is thus apparent that Mr. T.S. Bhamra, had not been engaged as a counsel by the petitioners. It is not known as to how he appeared for them in the appeal before the learned Commissioner.

Accordingly, it is apparent that the Commissioner decided the appeal without any notice to the petitioners. The order dated November 30, 1990 passed by the Commissioner cannot, therefore, be sustained. It is accordingly set aside. The matter is remanded to the Commissioner. He will decide afresh after affording adequate opportunity of hearing to the parties. In these circumstances of the case, there will be no order as to costs.

C.W.P. Nos. 12613 and 12621 of 1991.

In these petitions, the primary argument was the same as raised in the main case. This has already been considered and decided. Mr. G.S. Sandhu, learned counsel for the petitioners further contended that the points raised on behalf of the petitioners had not been considered by the authorities under the Act. This contention is belied on a perusal of the orders passed by the Collector and the

Commissioner. Learned counsel did not refer to any specific document which may have been produced by the petitioners before the authorities. Consequently, there is no merit in these petitions. These are accordingly dismissed with no order as to costs.

C.W.P. No. 14730 to 14740 and 14792 of 1989.

Mr. J.S. Wasu, learned counsel for the petitioners, in these cases, has raised a two-fold contention. He submits that all these cases had been decided by the Collector by a common order and that he had erred in rejecting the claim of the petitioners on the basis of a stray entry in the revenue record. He further submits that the land was not being used for common purposes and could not have, therefore, been considered as Shamilat Deh.

A perusal of the order by the Collector, a copy of which has been produced as Annexure P-1 in C.W.P. No. 14740 of 1989 shows that after consideration of the entire oral and documentary evidence the following findings have been recorded.

(a) The applicants have not been able to establish their possession of the disputed land for the last 30 years.

(b) The lands in dispute were used for the common purposes of the village.

(c) The land in dispute is Shemilat-Deh and the applicant cannot be said to be the owners of this land.

Nothing has been pointed out to show that these findings are contrary to any evidence on the record of these petitions. These findings have also been affirmed by the Appellate Authority.

Accordingly, there is no merit in these petitions. These are dismissed, but without any order as to Costs.

C.W.P. No. 14066 of 1991

In this case, the application filed by the petitioner u/s 11 claiming that he is the owner in possession of the land measuring 16 Marlas was disposed of by the Collector vide order dated November 21, 1989. A copy of this order has been placed on record as Annexure P.2. It was held that "as per revenue record the land in dispute is Panchayat- Deh but it was never used for the common purposes of the village and never leased out by the gram panchayat. However, as per revenue record the title of the land in question goes in favour of gram Panchayat." Further, relying on the statement of the Sarpanch of the village, Sh. Sodhi Ram to the effect that the Gram Panchayat has passed a resolution to sell the land because it was not of any use of the gram panchayat, the learned Collector directed that the petitioner shall continue in possession of the land, if he deposited the market value within 30 days of the pronouncement of the order. Aggrieved by this order, the Panchayat filed an appeal before the Commissioner. Finding that the Panchayat had been shown to be the owner of the land since the year 1906 and that in the Jamabandi for the year 1986-87, the Panchayat is also

shown to be cultivating the land, the decision of the Collector has been set aside. It has also been held that under Rule 12 of the Rules, the Gram Panchayat has to take permission from the Government before it can sell the land.

Mr. Kataria, learned counsel for the petitioner, submits that the small strip of land which is involved in the present case is actually being used as a passage. He further submits that in view of the resolution of the Panchayat to sell the land and the order of the Collector the petitioner has already deposited the market price of the land.

Keeping in view the fact that no written statement has been filed on behalf of the respondents denying the averments made in the petition as also that the small strip of land is the only passage available to his house which was constructed by him in the year 1944, it is considered appropriate that the matter be remanded to the Commissioner for a fresh decision. The Collector had recorded the finding regarding the petitioner's possession after visiting the spot. There is no evidence to indicate that he was actually not in possession. Accordingly, the order dated May 24, 1991 passed by the appellate authority (annexure P.3) is set aside. It is directed that the matter shall be decided afresh in accordance with law. In the circumstances of the case, there will be no order as to costs.

C.W.P. No. 17010 of 1991.

In this case the petitioners and their predecessors in interest had filed a civil suit for declaration that "the plaintiffs have been and are in continuous possession of the land in suit for the last more than 12 years since about 1949 as owners...." This suit was partly decreed only in respect of plaintiff Prem Singh by the Sub Judge 1st Class, Bassi vide Judgment dated April 28, 1969. The appeal filed by the Gram Panchayat was dismissed. It is averred that thereafter a Regular Second Appeal was filed by the Gram Panchayat in which this Court directed that in the light of the provisions of Act No. 19 of 1976, the case be sent to the Collector as the jurisdiction of the Civil Court was barred after April 15, 1976. After the decision of this High Court, the petitioner filed an application u/s 11 of the Punjab Village Common Lands (Regulations) Act, 1961 for declaration of ownership of land. The Panchayat filed an application u/s 7 of the Act. The Collector vide order dated April 3, 1987, held that the petitioners have continued to be in possession of the land in dispute since 1949, i.e. for 12 years preceding the commencement of the Act. Accordingly, the application filed by the petitioners was accepted while that filed by the Panchayat u/s 7 of the Act was dismissed. Aggrieved by the order of the Collector, the Panchayat filed an appeal. The Appellate Authority vide its order dated August 12, 1991 has accepted the appeal. Aggrieved by the order of the Appellate Authority the petitioners have filed the present petition.

Mr. Rajiv Kataria, learned counsel for the petitioners has contended that in view of the Judgment of the Full Bench in Gram Panchayat Village Batoi Kalan v. Jogar Ram and Ors.,¹ (1991-1) 99 PLR 260, the decree passed by the Civil Court

before April 15, 1976 is binding between the parties. He has further contended that respondent No. 2., viz. the Appellate Authority, has failed to consider the relevant evidence on the record.

No written statement has been filed on behalf of the respondents.

So far as the first plea is concerned, it is admitted position that the Regular Second Appeal filed by the Gram Panchayat against the petitioners was accepted in the year 1982. The details regarding number etc. of the appeal or a copy of the order passed by this Court have, however, not been furnished by the petitioners. In view of the fact that a specific Judgment had been delivered by this Court between the parties, a subsequent pronouncement on law by the Full Bench in Gram Panchayat Vill. Batoi Kalan's case can be of no consequence. The Judgment of the High Court having attained finality, the petitioners can derive no advantage from the Judgment of the Full Bench. They are bound by the decision of this Court in their case. If they were aggrieved by the Judgment, they could have resorted to the appropriate remedy. Nothing of the sort having been done, the effect of the order of this Court cannot be undone. Accordingly, the Judgment and decree of the Civil Court have no relevance to the decision of this case.

It also deserves notice that the Civil Court had only upheld the claim of Prem Singh and granted him a declaration that he had become the owner of the suit land by adverse possession. The claim of the other plaintiffs, viz. Ishar Dass, Hari Singh, Ram Dass, Ram Singh alias Ram Rakha sons or Sahib Dass was not accepted. Consequently the petitioner Nos. 4 to 11 could not have derived any advantage from the Judgment of the Civil Court. So far as petitioner Nos. 1 to 3 are concerned, the decree of the Civil Court having been reversed by the High Court, no reliance whatsoever can be placed thereon.

Mr. Kataria has then contended that the decision of the Collector upholding the claim of the petitioners has been reversed by the Appellate Authority without considering the relevant evidence on record. He further submits that the Appellate Authority had erred in holding that the possession of the petitioners had commenced after the consolidation of holdings.

A perusal of the order passed by the Collector shows that the petitioners were found to be in possession of land bearing Khasra Nos. 880, 883 and 885 and had Started cultivating it in the year 1949. It has been further found that after consolidation also Prem Singh had continued to be in possession. Since the respondents have not filed any written statement and the evidence as existing in the file has not been made available to the Court at the hearing of this petition, it appears appropriate to remand the case for fresh decision to the Appellate Authority. It is ordered accordingly.

The order dated August 12, 1991 (Annexure P.4) passed by the Additional Director is set aside and the Appellate Authority is directed to decide the appeal afresh after hearing the parties. In the circumstances of the case, the parties are left to bear their own costs.

CW.P. Nos. 18016, 18018 and 18049 of 1991.

Basically these three petitions are covered by the main Judgment. Mr. R. Chopra, learned counsel for the petitioners, raised a submission that the bachhat land could not be held to vest in the Panchayat. A similar argument appears to have been raised before the Appellate Authority. It has been found as a fact that initially the land had been entered in the name of "Jumla Malkan" but later on mutation was entered in favour of Gram Panchayat which had been duly sanctioned. It has been further observed that any land which is left for the common purposes of the village is also to be under the general superintendence and management of the Panchayat. There appears to be no basis for setting aside this finding as incorrect. Accordingly, there is no merit in these three petitions, which are dismissed. The parties are, however, left to bear their own costs.

C.W.P. 18917/91.

In this case, the Collector had vide his order dated September 5, 1985, dismissed the application of the Panchayat in the absence of the counsel for the applicant. This decision was given on merits. The learned Appellate Authority has directed that the case should be decided on merits. The order of the Collector has been accordingly set aside.

It is no doubt correct that the Collector had called the case more than once before finally dismissing the application of the Panchayat on merits. It is also correct that the application for restoration had also been dismissed. However, the Appellate Authority has exercised discretion in favour of the Gram Panchayat. The order is not per se arbitrary or unfair. No ground for setting aside the order is thus made out. The petition is accordingly dismissed. The case would be decided afresh by the Collector after giving the parties a due and a reasonable opportunity. The parties are, however, left to bear their own costs.

Accordingly, the provisions of Section 7 of the Act are upheld. In view of the peculiar facts, as noticed above. C.W.P. Nos. 10162 of 1991, 14066 of 1991 and 17010 of 1991 are allowed. The remaining petitions are dismissed. In the circumstances of the case, there will be no order as to costs.