
(2001) 10 P&H CK 0102
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 11447 of 2000

Balwant Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 19-10-2001

Acts Referred:

Constitution of India, 1950 — Article 226
Punjab Panchayati Raj Act, 1994 — Section 20(4)

Citation : (2001) 10 P&H CK 0102

Hon'ble Judges : Jawahar Lal Gupta, J; Ashutosh Mohunta, J

Bench : Division Bench

Advocate : Sandeep Khunger, for the Appellant; M.C. Berry, D.A.G., S.K. Pipat and Naresh Kaushal, for the Respondent

Final Decision : Dismissed

Judgement

Ashutosh Mohunta, J.—The petitioners through the present writ petition have prayed that a writ in the nature of certiorari be issued for quashing the order dated August 30, 1999 (annexure P3), passed by respondent No. 2, vide which respondent No. 5 has been ordered to be reinstated as Sarpanch.

2. Briefly, the facts are that the petitioners filed a complaint against respondent No.5, who is an elected Sarpanch of village Harion Kalan, Tehsil Samrala, District Ludhiana, on the ground that he had misutilised the grants given by the Government under the Indira Awaas Yojna, for the construction of pucca houses for the persons living in Kacha houses. It was pointed out that the Sarpanch (respondent No.5) constructed a drawing room in his house out of the grant given to one Bakhshish Singh alias Bakhshi Singh. It was further pointed out that by giving the grant to Smt. Paramjit Kaur, married daughter of Surmukh Singh deceased, instead of his widow Smt. Jaswant Kaur, respondent No.5 had misutilised his position. Respondent No.2, before whom the complaint was lodged, forwarded the same to the District Development & Panchayat Officer, Ludhiana, respondent No.4, for holding preliminary inquiry into the matter. The

District Development & Panchayat Officer held that respondent No.5 is responsible for getting wrong grants released and spending the same under the Indira Vikas Scheme. In this way, the Sarpanch has misused his post." Accordingly, it was recommended that action be taken against respondent No.5. Thereafter, regular inquiry was conducted by the Divisional Deputy Director, Rural Development and Panchayat, Patiala, respondent No. 3, who also recommended that action be taken against respondent No.5. The case was finally decided by respondent No.2, who after considering the reply of the Sarpanch, held that the allegations levelled against respondent No.5 were baseless and exonerated him of all the charges. A copy of the order passed by respondent No.2 has been placed on record as Annexure P3. It is against this order that the petitioners have filed the present writ petition.

3. A written statement controverting the allegations made in the writ petition has been filed by the respondent No.5.

4. Counsel for the parties have been heard.

5. With regard to the allegation of construction of a drawing room in his house by respondent No.5, it has been observed by respondent No.2 in his order Annexure P3 that "the grant was released on the basis of resolution dated 17.5.74 of the Gram Panchayat in which there is no fault of the Sarpanch and the registered sale deed has also been got done in the name of Bakhshish Singh for the land which was given by the Sarpanch for the said purpose." Further, it has been found that Bakhshish Singh is residing at that place. Once it has been found that Bakhshish Singh was residing at the site registered in his name, it cannot be said the respondent No.5 had misutilised the grant released to Bakhshish Singh.

6. So far as the allegation of release of grant to Smt. Paramjit Kaur, married daughter to Sumiukh Singh, deceased is concerned, it has been found that it has been released to her as her mother Smt. Jaswant Kaur had allegedly contracted a second marriage. It has been further observed by respondent No.2 that if there was any need of revision, then "it was the duty of the then Block Development & Panchayat Officer to get the grant changed in the name of some other beneficiary." Thus, the release of grant in favour of Smt. Paramjit Kaur was fully justified and again the Sarpanch cannot be faulted on this count.

7. Moreover, respondent No.5 had not taken any action of his own. The grants have been disbursed to the persons concerned on the basis of the resolution passed by the gram Panchayat as a whole and not by the Sarpanch alone. Besides, the grants have been disbursed after getting the necessary approval from the authorities concerned. Still further, there are disputed questions of fact, which cannot be decided by exercising extra-ordinary powers under Article 226 of the Constitution.

8. Apart from the above, the impugned order (Annexure P3) was passed on August 30, 1999. Thus, there is a considerable delay in filing the present writ petition. No explanation has been given as to why the impugned order has been

challenged after such a long time.

9. Still further, after the filing of the complaint fresh elections were held for the post of Sarpanch. Respondent No.5 was re-elected as such.

10. No other point has been raised.

11. In view of the above, we find no merit in this writ petition. It is, accordingly, dismissed. No costs.

Sd/- Jawahar Lal Gupta, J.