
(1982) 09 P&H CK 0031
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3224 of 1981

Bani Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 03-09-1982

Acts Referred:

Citation : (1983) ILR (P&H) 129 : (1983) PLJ 80 : (1985) RRR 396

Hon'ble Judges : I.S.Tiwana, J

Advocate : Ram Kumar Malik, Advocate., Advocates for appearing Parties

Judgement

I.S. Tiwana, J. (Oral)

1. The petitioner impugns the order of the Deputy Commissioner dated June 29, 1982, exercising the power of the Government under section 103(3) of the Punjab Gram Panchayat Act, 1952 (for short, the Act) as applicable in Haryana whereby the respondent Gram Panchayat suspended on May 2, 1981 vide Annexure P1 was revived. The challenge is two fold :

(i) The Gram Panchayat had been placed under suspension vide Annexure P. 1 as a result of a complaint lodged by the petitioner against the said Panchayat and it could not be revived without affording him an opportunity of being heard; and

(ii) the order Annexure P. 2 is a nonspeaking and arbitrary order.

The learned counsel for the respondents seriously contests this stand of the counsel for the petitioner.

2. In support of his first contention, the learned counsel for the petitioner relies on the observations made by a Division Bench Judgment of this Court in Suresh Chand v. Ved Parkash, 1979 P.L.R. 96 : 1985 R.R.R. 518, wherein in almost a similar situation, for revoking the suspension of a Sarpanch, it was observed as follows :

"There is yet another ground justifying the quashing of this order, that is, it was

on the complaint of the petitioner No. 1 that respondent No. 2 had come to the conclusion as recorded in Annexure P. 2. When the respondent No. 1 was to differ with Annexure P. 2 so soon after its passing, the exigency of the situation and principles of natural justice and the principle laid down in *Mange Ram's case* (supra) required that petitioner No. 1 should have been heard against the proposed order. Order Annexure P. 3 is, therefore, quashed for the above reasons".

The learned counsel maintains that on parity of reasoning, the impugned order in this case is also unsustainable. Learned counsel for the respondents joins issue with the submission that here the order has been passed by the Deputy Commissioner in exercise of the plenary powers given to him under clause (a) of subsection (3) of Section 103 of the Act which says that the Government may at any time revive the Gram Panchayat so suspended under the Section.

3. Though it is not a matter of dispute that the suspension order Annexure P. 1 was passed under subsection (2) of this section, yet I do not find any merit in the stand of the learned counsel for the reason that once the power of review is recognised whether on the basis of a specific statutory provision or on the basis of inherent jurisdiction still to my mind the principle governing the exercise of that power would remain the same. If, as held by the Division Bench in *Suresh Chand's case* (supra), such a review cannot be restored to without affording an opportunity of hearing to the complainant, there is no logic as to why such a notice or hearing was not required to be given in the present case before the passing of Annexure P.2.

4. So far as the second ground of attack is concerned, I feel that the learned counsel for the petitioner is still on a stronger footing. A bare reading of this order indicates that the learned Deputy Commissioner thought to revive the Panchayat and thereby annul his order Annexure P. 1 on having heard the Gram Panchayat "on personal level". This order does not disclose any facts or factors which weighed with the Deputy Commissioner for nullifying the order Annexure P. 1. Concededly Annexure P. 1 passed under subsection (2) of Section 103 of the Act is a quasijudicial order and any order reviewing or nullifying such an order cannot possibly be held to be purely an administrative or executive order as the learned counsel for the respondents seeks to maintain. If Annexure P. 2 has also to be taken to be a quasijudicial order as it should be for the reason stated above then such an order has to disclose the reasons or the working of the mind of the Deputy Commissioner and cannot possibly be sustained on the ground of a "personal level" hearing. It is well known that any judicial or quasijudicial authority has to keep aside its "personal level" affairs in the performance of its judicial or quasijudicial jurisdiction.

5. For the reasons recorded above, order Annexure P. 2 is quashed. This, however, does not debar the Deputy Commissioner from proceeding in the matter afresh, if he so chooses, in accordance with law. The petitioner would have the costs of this litigation from respondents Nos. 1 to 3 which I determine

at Rs. 300/. Petition accepted.