

(2002) 05 P&H CK 0059
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7866 of 2002

Chajju Ram

APPELLANT

Vs

Financial Commissioner & Secretary to Government,
Haryana, Development & Panchayats Department and others

RESPONDENT

Date of Decision : 20-05-2002

Acts Referred:

Citation : (2003) 1 ICC 873 : (2003) 1 LJR 777 : (2002) 2 PLJ 408 : (2002) 4 RCR(Civil) 637

Hon'ble Judges : Jawahar Lal Gupta, J and N.K.Sud, J

Advocate : Shri Arun Jain, Advocate., Advocates for appearing Parties

Judgement

Jawahar Lal Gupta, J. (Oral)

1. The petitioner made a complaint against respondent No. 3, the Village Sarpanch. It was alleged that the said respondent had encroached upon the Panchayat land. Vide order dated 11th July, 2001, the Deputy Commissioner placed the third respondent under suspension. Aggrieved by the order, the third respondent filed an appeal. It was accepted by the Financial Commissioner vide order dated 23rd August, 2001. In the meantime, enquiry proceedings against the third respondent were completed. The allegations against him were not found to have been proved. Vide order dated 30th August, 2001, the Deputy Commissioner exonerated the third respondent. Aggrieved by the action, the petitioner filed an appeal. It was dismissed by the Financial Commissioner vide order dated 6th February, 2002. The petitioner prays that the orders dated 30th August, 2001 and 6th February, 2002, copies of which have been produced as Annexures P.5 and P.6 with the writ petition, be quashed.

2. Shri Arun Jain, learned counsel for the petitioner contends that the third respondent had encroached upon the Panchayat land. The Deputy Commissioner had wrongly exonerated him. Still further, the counsel submits that the petitioner's appeal has been arbitrarily rejected on the ground of limitation.

3. The petitioner's complaint was that the third respondent had encroached upon 50 square feet of land in Khasra No. 35. Reliance was placed on the demarcation report. The matter was admittedly inquired into. During the proceedings, the allegation has not been found to be true. Thus, the Deputy Commissioner accepted the report of enquiry and passed the order dated 30th August, 2001. He exonerated the third respondent.

4. A perusal of the order shows that the enquiry had been entrusted to a Sub Divisional Officer. It is not the petitioner's case that the inquiry Officer had not examined the evidence or that he had not considered the matter objectively. Still further, nothing has been placed on record to show as to how the encroachment has been made. Is there any construction or is the land lying vacant ? There is no answer. In any event, the competent authority has examined the matter and found that no ground for taking action against the Sarpanch is made out.

5. Shri Jain submits that the petitioner had filed an appeal. It should not have been rejected on the ground of limitation. It should have been examined on merits.

6. We have doubt about the petitioner's right to file an appeal. In fact, in one of the cases the competent authority had taken the view that the complainant had no right to file an appeal. This decision was upheld by the Bench in Bhagwan Singh and others v. State of Haryana and others, 2002(2) RCR(Civil) 572 (P&H) (DB) : CWP No. 3963 of 2002, decided on 19th March, 2002, with the following observations :

"In the present case, the language of the Statute is clear and unambiguous. Right to file an appeal is the creation of the Statute. The Legislature has chosen to give it to the person aggrieved by an order passed under clauses (1), (3) and (4). In the very nature of things, the grievance would be of the person, against whom an order of suspension, removal or disqualification has been passed. In case the person is exonerated, the complainant has no cause to feel aggrieved. The contrary view would result in unnecessary complaints and pinpricking. It is not unknown that a candidate who loses election, tries to find fault with the elected person. Very often, there is a continuous stream of complaints so as to make the working of the elected person impossible. It appears that the Legislature has advisedly not conferred the right of appeal on the complainant. This is so, despite the fact that in the year 1983, the provision in the old Act was expressly amended with the object of providing remedy to the complainant. In any event, we are inclined to give a restricted meaning to the provision so as to ensure that the working of the elected representatives of the village community is not unduly hampered".

7. Irrespective of the above, it is not disputed that there was delay in the filing of the appeal. No reason for condonation of delay has been pointed out. In any case, the matter of encroachment on a small piece of land measuring 50 square feet, viz. less than 6 square yards was involved. The competent authority has

considered the matter. It appears that the petitioner is acting against the third respondent only on account of some local politics. The petition is not bonafide. It is not calculated to promote public interest. It is a purely private interest litigation. We find no ground to interfere under Article 226 of the Constitution.

8. In view of the above, the writ petition is dismissed in limine.