
(1995) 09 P&H CK 0038
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5405 of 1991

Gram Panchayat	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 20-09-1995

Acts Referred:

Punjab Village Common Lands (Regulation) Rules, 1964 — Rule 5

Citation : (1996) 112 PLR 455

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : Arun Jain and Raman Sharma, for the Appellant; Manjit Singh, AG (I), for the Respondent

Final Decision : Allowed

Judgement

T.H.B. Chalapathi, J.—This writ petition is filed to quash the order of the 1st respondent dated 3.11.1981 (Ann. P. 6).

2. The petitioner is the Gram Panchayat of village Badhar. Under the Rural integrated Development Programme, the State Government wanted to set up a Focal Point at village Badhar, District Sangrur. The site Selection Committee consisting of the then Deputy Commissioner Sangrur, Additional Deputy Commissioner, Sangrur, the Executive Engineer P.W.D. (B & R) District Development and Panchayat Officer, Sangrur, the Sub Divisional Officer (Civil) Barnala and the Block Development and Panchayat Officer, Barnala, visited the village in 1978 and selected the land belonging to Sant Hazara Singh which is adjacent to the National Highway. As the site Selection Committee was not satisfied with the Shamlat land vested in the Gram Panchayat it was decided that the Gram Panchayat should take the land belonging to Sant Hazara Singh measuring 77 Kanals 18 marlas in exchange of the land of the Gram Panchayat, petitioner. Accordingly, a resolution was passed on 28.1.1979 by the Gram Panchayat and the Deputy Commissioner, Sangrur vide his order held 26.6.1979 approved the exchange of land of Gram Panchayat with the land of Smt. Hazara

Singh. The Gram Panchayat also passed a resolution on 4.10.1979, mentioning kila number of the land to be given to Sant Hazara Singh. Thereafter, possession of the said land for construction of the focal point was taken and in exchange Sant Hazara Singh was put in possession of the land of the Gram Panchayat. Thereafter, by the impugned order (Ann. P.6) the Financial Commissioner, Development and Secretary, Punjab Government cancelled the exchange.

3. According to the petitioner, the Financial Commissioner has no power to cancel the resolution of the Gram Panchayat which has been approved by the Deputy Commissioner. The learned counsel for the petitioner contended that under Rule 5 of the Punjab Village Common Lands (Regulation) Rules, 1964, the Panchayat can transfer any land with the approval of the Collector where the land is required in connection with the integrated Rural Development Programme sponsored by the Government and the Financial Commissioner has not given any valid reason for cancellation of the exchange. Therefore the order of the Financial Commissioner is liable to be set aside. Rule 5 of the Punjab Village Common Lands (Regulation) Rules, 1964 reads as follows:-

"A Panchayat if it is of the opinion that it is necessary so to do for the benefit of the inhabitants of the village may, with the prior approval of the Government transfer any land in shamlat deh by exchange with the land of an equivalent value.

Provided that where the land is required in connection with the integrated rural development programme sponsored by the Government the Panchayat may with the approval of the Collector transfer, any land in shamlat deh by exchange with the land of the an equivalent value."

4. Thus it is clear that when the land was required for the purpose of setting up a focal point in connection with the Integrated Rural Development Programme sponsored by the Government the Gram Panchayat can take the land for the said purpose in exchange of its land of equivalent value with the approval of the Deputy Commissioner. Therefore, the power to approve the sanctioning the exchange vests with the Deputy Commissioner under Rule 5." The Deputy Commissioner vide Annexure P-5 approved the exchange of land between the Gram Panchayat and Sant Hazara Singh which is in accordance with the resolution of the Gram Panchayat Annexure P.1 and P.3, Therefore, the exchange has been effected following the procedure under the rules. No body has objected to the exchange. No reasons have been given by the Financial Commissioner for cancel ling the exchange and coming to the conclusion that the exchange was not in the interest of the Gram Panchayat. He did not give the price of the land of the Gram Panchayat and the price of the land of Sant Hazara Singh with which the land of the Gram Panchayat was exchanged. In the absence of. any material, it is not proper for the Financial Commissioner, to set aside the order of the Deputy Commissioner approving the exchange. I am therefore, of the opinion that the writ petition is to be allowed.

5. I accordingly, allow the writ petition and set aside the order of the Financial Commissioner (Ann. P-6). There will be no order as to costs.