
(2011) 03 P&H CK 0399

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 20942 of 2010

Gram Panchayat Jhujhar Nagar

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 28-03-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Punjab Panchayati Raj Act, 1994 — Section 199, 201, 3, 4

Citation : (2011) 03 P&H CK 0399

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mehinder Singh Sullar , J.—Concisely, the facts, culminating in the commencement, relevant for disposal of the instant writ petition and emanating from the record, are that initially Gram Sabha, Behlolpur, District Mohali(Respondent No. 4) was in existence. Out of the said Gram Sabha, a new Gram Sabha in the name of Jhujhar Nagar, was carved out and was notified as Gram Sabha Jhujhar Nagar, in view of the provisions of Sections 3 and 4 of The Punjab Panchayati Raj Act, 1994 (hereinafter to be referred as "the Act"). The Director Rural Development and Panchayat, Punjab, Mohali(Respondent No. 2) (for brevity "the Director") was stated to have directed all the Block Development and Panchayat Officers of the State including the Block Development and Panchayat Officer(Respondent No. 3) (for short "the BDPO") to distribute the area of respective Gram Sabhas, by way of letter dated 17.11.1998(Annexure P-1). Consequently, the area of respective Gram Sabha was distributed by Respondent No. 3. In the wake of distribution of the area, the mutation in question was ultimately sanctioned in favour of Petitioner-Gram Panchayat, vide order dated 29.07.2008(Annexure P-4).

2. Petitioner-Gram Panchayat Jhujhar Nagar claimed that Gram Panchayat Behlolpur(Respondent No. 4) filed a petition u/s 199 of the Act, for cancellation

of the Resolution dated 25.02.2004 before the Director, which was dismissed by means of order dated 27.10.2009, Endst. dated 19.02.2010 (Annexure P-5). Thereafter, Respondent No. 4 filed the revision petition(Annexure P-6) u/s 201 of the Act before the Secretary, Rural Development and Panchayat, Punjab, Chandigarh(Respondent No. 1). According to the Petitioner, Respondent No. 1 did not issue any notice to it, rather on the first date of hearing, remanded the matter back to the Divisional Deputy Director, Patiala, to redistribute the area of respective Panchayats, by virtue of impugned order dated 09.08.2010(Annexure P-7).

3. The Petitioner did not feel satisfied and preferred the instant writ petition, challenging the impugned order(Annexure P-7) in this context, invoking the provisions of Articles 226/227 of the Constitution of India.

4. After hearing the learned Counsel for the parties, going through the record and legal provisions with their valuable assistance and after considering the entire matter deeply, to my mind, the present writ petition deserves to be accepted in this respect.

5. As is evident from the record that Petitioner-Gram Panchayat Jhujhar Nagar was carved out of the Gram Panchayat Behlolpur(Respondent No. 4) under Sections 3 and 4 of the Act. Respondent No. 3 was stated to have distributed the area of the respective Gram Panchayats in pursuance of the letter dated 17.11.1998 (Annexure P-1) amongst the Petitioner and Respondent No. 4. The first petition filed by Respondent No. 4 was dismissed by the Director, vide order(Annexure P-5) Then, Respondent No. 4 filed the revision petition(Annexure P-6) u/s 201 of the Act, which was accepted by Respondent No. 1 by way of impugned order (Annexure P-7).

6. What is not disputed here is that Respondent No. 3 distributed the land to Petitioner-Gram Panchayat Jhujhar Nagar, in pursuance of the directions (Annexure P-1) of the Director. In this manner, the valuable right has already accrued to it, but Respondent No. 1 has neither issued any notice, nor provided any opportunity of being heard to it(Petitioner-Gram Panchayat), before setting aside the area already distributed in its favour. The minimum legal requirement was that Respondent No. 1 ought to have issued notice and granted opportunity of hearing to the Petitioner, before passing any adverse order against it. Meaning thereby, Respondent No. 1 has ex part accepted the revision petition filed by Respondent-Gram Panchayat, Behlolpur, in a casual manner, without hearing the aggrieved parties. Thus, the impugned order(Annexure P-7) is not only illegal, but against the principles of natural justice as well and cannot legally be sustained in the eyes of law, in the obtaining circumstances of the case.

7. In the light of aforesaid reasons and without commenting further anything on merits, lest it may prejudice the case of either side during the course of subsequent hearing of the revision petition, the instant writ petition is accepted. Consequently, the impugned order dated 09.08.2010(Annexure P-7) is hereby

set aside. The case is remitted back to the Revisional Authority(Respondent No. 1) to decide the matter afresh, after giving adequate opportunity of hearing to Petitioner-Gram Panchayat, in accordance with law and not otherwise.

8. The parties through their counsel are directed to appear before the Revisional Authority(Respondent No. 1) on 02.05.2011 for further proceedings.