

(2006) 05 P&H CK 0084
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4923 of 2005

Harbhajan Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 15-05-2006

Acts Referred:

Punjab Panchayati Raj Act, 1994 — Section 216, 216(2)

Citation : (2006) 144 PLR 554 : (2006) 3 RCR(Civil) 633

Hon'ble Judges : Vinod K.Sharma, J;Jasbir Singh, J

Bench : Division Bench

Advocate : G.S. Nagra, for the Appellant; P.S. Chinna, Additional A.G., for the Respondent

Final Decision : Allowed

Judgement

Jasbir Singh, J.—In this writ petition, the challenge is to the order dated 11.8.2004 (Annexure P-4), passed in revision filed by the petitioner, vide which his liability, has been enhanced by the Special Secretary without issuing any show cause notice him.

2. It is apparent from the record that the Block Development and Panchayat Officer vide Order Annexure P-I made an assessment u/s 216 of the Punjab Panchayati Raj Act, 1994 (hereinafter referred to the as the "Act") for the loss caused to the Gram Panchayat of village Bhago Arrian and fixed liability on the petitioner for loss of Rs. 77,843/-. Against that order, the petitioner went in appeal which was accepted by the District Development & Panchayat Officer vide order dated 9.1.1998 (Annexure P-2) and the matter was remanded to the Block Development & Panchayat Officer with a direction to decide it afresh. Vide that order, the Appellate Authority has also held that along with the petitioner, the Panchayat Secretary and Junior Engineer are also liable as with their connivance, funds of the Gram Panchayat were misutilised. The petitioner went in revision. While dismissing the revision petition on 11.8.2004, the order passed by the Appellate Authority was reversed and the petitioner was burdened with the entire

liability. It was also held in the impugned order that u/s 216 of the Act, recovery can not be effected from the Junior Engineer, as well as the Panchayat Secretary and only the members of the Gram Panchayat can be held liable for any loss caused to it. It was also ordered therein that against the Panchayat Secretary and Junior Engineer, Department proceedings be initiated.

3. Counsel for the petitioner by referring to the provisions of Sub-section (2) of Section 216 of the Act, argued that before enhancing the liability for loss, no show cause notice was given to the petitioner though it was mandatory under the Act.

4. On our asking, the learned State Counsel candidly admitted that no show cause notice was issued to the petitioner.

5. In view of the facts mentioned above, the writ petition is allowed and the impugned order Annexure P-4 is set aside qua the petitioner only and the Revisional Authority is directed to pass a fresh order in revision petition, filed by the petitioner, as per law.