
(1954) 08 P&H CK 0015
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 14 of 1954

Hira Singh Harnam Singh and Another	APPELLANT
Vs	
Punjab State	RESPONDENT

Date of Decision : 04-08-1954

Acts Referred:

Constitution of India, 1950 — Article 226
Police Act, 1861 — Section 15

Citation : AIR 1955 P&H 103 : (1955) CriLJ 733

Hon'ble Judges : Kapur, J

Bench : Single Bench

Advocate : Daljit Singh, for the Appellant; S.M. Sikri, General, for the Respondent

Final Decision : Dismissed

Judgement

Kapur, J.—This is a rule obtained by Hira Singh and another, residents of village Rupana. for and on behalf of themselves and the other inhabitants of the village for a writ of mandamus against the State of Punjab ordering the State to forbear from recovering punitive police tax imposed upon the inhabitants of that village.

2. The petitioners allege that on the night between the 14th and 15th September 1952 there was a breach in the distributory within the area of village Rupana which the canal authorities alleged was a deliberate cut and an enhanced water rate was imposed upon the petitioners under the orders of the Divisional Canal Officer, Abohar Division, which order on appeal being taken to the Commissioner was set aside on 3-8-1953 wherein the Commissioner held that it had not been proved that there was a cut in the canal and not a mere breach.

By a notification dated 9-12-1952 under S. 15, Police Act, the Governor of the Punjab declared amongst others Rupana village to be in a disturbed state because of the misconduct of the inhabitants and ordered the establishment of a punitive police post there, the cost of which was to be levied from the petitioners, the cost being Rs. 12,500/-. The petitioners alleged that the only

reason for establishing the police post was the alleged deliberate cut in the canal which the Commissioner has found not to have been proved, and they have applied to this Court for a writ of mandamus.

3. In their reply the State have pleaded that the punitive police post was set up on account of the continued misconduct of the inhabitants of the village and in paragraph 8 they have given a long List of the misconduct which consists of-

"(1) the inhabitants had indulged in the offence of canal cutting regularly and persistently. One cut was in 1949, one in 1950, one in 1951 and two in 1952;

(2) sixty-three cases were reported from the Village in the preceding five years (1949 to 1953) including two highway robberies, one murder, one murderous assault and twenty-one cases under the Indian Arms Act; and

(3) there were also cases in regard to three bad characters "in bundle "A" and one in bundle "B" and ten having personal files".

4. The power of quartering additional police in disturbed or dangerous areas has been given to the State Government u/s 15, Police Act, which provides:

"15(1) It shall be lawful for the State Government by proclamation to be notified in the Official Gazette, and in such other manner as the State Government shall direct, to declare that any area subject to its authority has been found to be in a disturbed or dangerous state, or that, from the conduct of the inhabitants of such area or of any class or section of them, it is expedient to increase the number of police.

(2) It shall thereupon be lawful for the Inspector-General of Police, or other officer authorised by the State Government in this behalf, with the sanction of the State Government to employ any police-force in addition to the ordinary fixed complement to be quartered in the area specified in such proclamation as aforesaid.

(3) Subject to the provisions of Sub-section (5) of this section, the costs of such additional police-force shall be borne by the inhabitants of such area described in the proclamation.

(4) * * *

(5) * * *

(6) * * *".

Under this section, as I read it, it is for the State Government to decide whether there is such conduct or misconduct of the inhabitants in an area because of which it is expedient to increase the number of police. It is not for the Courts to decide that. It is true that power is given to the civil Courts to see whether a particular order is under the provisions of a particular Act or not, but it is beyond the jurisdiction of the Courts to interfere except where power has been exceeded or abused; see -- "Roberts v. Charing Cross, Euston and Hampstead Railway

Co." (1903) 87 LT 732 at p. 734 (A), which was quoted with approval in -- "Lahore Electric Supply Co. Ltd., Lahore v. The Province of Punjab" AIR 1943 Lah 41 at pp. 44, 45 (FB) (B).

5. In the present case, the power to make such an order is given to the State Government under S. 15, Police Act, and from what has been stated in the affidavits of the parties there is nothing to show that there is any abuse or excess of power. Paragraph 8 of the affidavit of the State Government gives the reasons which led the State Government to impose punitive tax, and in my opinion it is not for this Court to decide whether the Government were right or wrong. That would be an interference with the executive government in its exclusive duty of seeing that law and order is maintained.

6. I have no doubt that if the petitioners are in any manner aggrieved the Courts of law are not the proper forum to get redress. As was observed by their Lordships of the Privy Council in -- AIR 1937 31 (Privy Council) to give redress is the responsibility, and "their Lordships can only trust will be the pleasure, of the executive Government." If the petitioners are in any way aggrieved I have no doubt that the present executive of Punjab-State will look into the matter and give such relief which the circumstances of the case require.

7. I would, therefore, dismiss this petition and discharge the rule, but the parties will bear their own costs.