
(2016) 01 P&H CK 0037
In the Punjab And Haryana At Chandigarh
Case No : CWP No.4324 of 1994

Hoshiara & Ors.

APPELLANT

Vs

Gram Panchayat, Karontha

RESPONDENT

Date of Decision : 07-01-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Punjab Village Common Lands (Regulation) Act, 1961 — Section 13

Citation : (2016) 2 ICC 268 : (2016) 1 LawHerald 340

Hon'ble Judges : Mr. Surya Kant; Mr. P.B. Bajanthri, JJ.

Bench : Division Bench

Final Decision : Dismissed

Judgement

Mr. Surya Kant, J. (Oral) - The petitioners are residents of Village Karontha, Tehsil and District Rohtak. They have laid challenge to the orders dated 24.5.1993 and 27.10.1993 passed by the Collector, Rohtak and Commissioner, Rohtak Division, respectively. Vide the first order, the Collector allowed the appeal filed by Gram Panchayat of Village Karontha through Block Development and Panchayat Officer, Kalanour and remanded the case to the Assistant Collector, Ist Grade to decide the petition filed by the petitioner under Section 13-A of the Punjab Village Common Lands (Regulation) Act, 1961 (for short "the Act") as applicable to State of Haryana after framing the issues and giving opportunity to the parties to lead their respective evidence. The parties were directed to appear before the Assistant Collector Ist Grade, Rohtak on 8.6.1993.

2. It may be mentioned here that the Assistant Collector Ist Grade, Rohtak vide his order dated 27.9.1990 had accepted the petitioners' declaratory petition and held them owners of the suit land. That order was challenged by the Gram Panchayat through the Block Development and Panchayat Officer.

3. The aggrieved petitioners challenged the order of the Collector in a revision petition before the Commissioner on the solitary ground that there was no Resolution passed by the Gram Panchayat to file appeal before the Collector and

that the Block Development and Panchayat Officer was neither competent nor had any locus standi to file that appeal. The said contention was turned down by the Commissioner observing that the Block Development and Panchayat Officer has every right to watch the interest of the Gram Panchayat over Shamlat Deh and there was nothing erroneous in filing appeal by the Gram Panchayat through Block Development and Panchayat Officer.

4. Still aggrieved, the petitioners have filed the instant writ petition in which further proceedings were stayed.

5. We have heard learned counsel for the petitioners who has reiterated the contention raised before the Revisional Authority.

6. Having given our thoughtful consideration, we do not find any substance in the plea taken by the petitioners. The Block Development and Panchayat Officer is the official representative of State Government at the Block level through whom different kind of grants, financial assistance or other State schemes are implemented by every Gram Panchayat of that Block area. He is the Principal Executive Officer of the State at Block level to oversee the performance of Gram Panchayats and to ensure that the statutory duties and responsibilities entrusted to a Gram Panchayat under the 1961 Act are duly performed. He is also obligated to see that the Gram Panchayat funds including the Government Grants received under schemes are appropriately utilized. He is equally duty bound to supervise that the Gram Panchayat properties and assets are well protected.

7. The Gram Panchayat is a juristic person and an impersonal character. It is represented by its elected representatives. In a given case, if the representatives are, due to conflict of interest, colluding with the opposite party or have acted in a manner detrimental to the interest of the Gram Panchayat or if they fail to take the action which they ought to have taken to protect the interest of the Gram Panchayat, it is the duty of the State Officers to come forward and protect or promote the interest of the residents of the village. The Block Development and Panchayat Officer, in the instant case had filed the appeal on behalf of the Gram Panchayat as there was some conflict of interest between its office bearers and the Gram Panchayat. While it is not expedient or advisable for this Court to express any views on merits but in a given case, where the Sarpanch or Panches also have commonality of interest with other proprietors of the village, there would be none except the Government Officers to protect the interest of the Gram Panchayat including its assets. For the reasons afore stated, we do not find any illegality in the action of the Block Development and Panchayat Officer in filing the appeal on behalf of the Gram Panchayat. Consequently, the writ petition is dismissed. The Assistant Collector, Ist Grade, Rohtak is directed to proceed with the matter, in accordance with law after advance notice to the parties. It is, however, clarified that we have not expressed any views on merits of the case.