
(2010) 09 P&H CK 0060
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 8986 of 2009

Jai Bhagwan

APPELLANT

Vs

Lokayukta and Others

RESPONDENT

Date of Decision : 09-09-2010

Acts Referred:

Haryana Lokayukta Act, 2002 — Section 8, 8(2)

Citation : (2010) 09 P&H CK 0060

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Ramesh Hooda, for the Appellant; Gaurav Dhir, DAG Haryana for the Respondent No. 1 and 2 and Mr. Raj Mohan Singh, Advocate for the Respondent No. 3, for the Respondent

Final Decision : Allowed

Judgement

Alok Singh, J.—Present petition is filed challenging order dated 20.4.2009 passed by Lokayukta Haryana, Chandigarh as well as order dated 22.5.2009 passed by Deputy Commissioner, Jhajjar. The brief facts of the present case are that petitioner was Sarpanch of village Jassaour Kheri, District Jhajjar. Petitioner was found guilty of removing earth and was directed to make payment of Rs. 24,122/- for removing the earth illegally. Undisputedly, petitioner--Sarpanch has paid amount of Rs. 24,122/- as directed by Sub Divisional Officer/Deputy Commissioner. It seems thereafter, a complaint was made to Lokayukta, Haryana and Lokayukta had directed the Deputy Commissioner, Jhajjar to examine the complaint made before the Lokayukta. Deputy Commissioner had referred the matter to the technical committee and technical committee had assessed the value Rs. 1,53,610/-. The value assessed by the technical committee was communicated to the petitioner and petitioner had agreed to pay balance amount as assessed by the technical committee. Matter was reported to the Lokayukta by the Deputy Commissioner and Lokayukta without issuing any notice to the petitioner Sarpanch has observed that Sarpanch was not only guilty for

irregularities but also guilty of misappropriation of panchayat funds which is a criminal offence. Learned Lokayukta vide impugned order dated 20.4.2009 directed the Deputy Commissioner, Jhajjar to report as to why no criminal proceedings had been initiated against the Sarpanch. Having received order dated 20.4.2009 from Lokayukta, Deputy Commissioner had passed order dated 22.5.2009 directing the Block Development and Panchayat Officer, Bahadurgarh to take appropriate legal criminal action against the petitioner/Sarpanch.

2. Learned counsel for the petitioner vehemently argued that before making observation in the impugned order, learned Lokayukta had not issued any notice to the petitioner and petitioner was not afforded any opportunity of being heard. Learned counsel for the petitioner further argued that observation made against the petitioner that petitioner is guilty of misappropriation of panchayat funds which is criminal offence is ex party without hearing the petitioner.

3. In the reply filed by the Lokayukta, it has been stated that no occasion for issuing notice to the petitioner u/s 8(2) of Haryana Lokayukta was required.

4. I have heard learned counsel for the parties and perused the record.

5. From the perusal of the record, it transpires that no notice was ever issued to the petitioner before passing the observation against the petitioner and petitioner was not afforded any opportunity of being heard.

6. Section 8 of the Haryana Lokayukta Act, 2002 reads as under:--

8. Matter which may be inquired into by Lokayukta--(1) subject to the provisions of this Act, the Lokayukta may on receipt of a reference from Government proceed to inquire into the allegations or the grievances made against a public servant.

(2) The Lokayukta may inquire into any act or conduct of any person other than a public servant in so far as he considers it necessary so to do for the purpose of his enquiry into any allegation of misconduct against a public servant provided that the Lokayukta shall give such a person reasonable opportunity of being heard and to produce evidence in his defence.

7. From the perusal of Section 8(2) of the Act it can safely be said that if Lokayukta intends to enquire any action or conduct of any person other than a public servant for the purpose of his enquiry into any allegation of misconduct against a public servant, he shall do so after giving reasonable opportunity of being heard to produce evidence in his defence.

8. Undisputedly the opportunity of being heard was never given to the petitioner before making any observation against the petitioner.

9. Order impugned passed by Lokayukta dated 20.4.2009 can not stand in the scrutiny of law, consequently order passed by Deputy Commissioner pursuant to the observation made by learned Lokayukta in the impugned order can also be not sustained. Any action taken pursuant to the impugned order shall also stand

quashed.

10. Writ Petition is allowed. Impugned orders are quashed. No order as to costs.