
(2011) 05 P&H CK 0026
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 8269 of 2011

Jasbir Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 10-05-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Punjab Panchayati Raj Act, 1994 — Section 200, 200(1), 200(2)

Citation : (2011) 163 PLR 386

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Judgement

Mehinder Singh Sullar, J.—Tersenessly, the facts, commencing in the commencement, relevant for disposal of the present writ petition and emanating from the record, are that in the wake of general Gram Panchayat election held in the month of June, 2008, petitioner-Jasbir Singh was elected as a Sarpanch of the Gram Panchayat of village Dadwindi, District Kapurthala, in view of the provisions of The Punjab Panchayati Raj Act, 1994 (hereinafter to be referred as "the Act"). Since then, he was stated to have been working for the welfare of the Gram Panchayat. But, now few members Panchayat wanted to grab the office of the Sarpanch illegally and started obstructing the smooth functioning of the Gram Panchayat. They did not participate in the meeting on one pretext or the other.

2. According to the petitioner that, on 02.11.2010, his rival group made a complaint(Annexure P-1), informing the District Development and Panchayat Officer-respondent No. 2(for, brevity "the DDPO") that they are not supporting the Sarpanch. Thereafter, the DDPO gave a notice(Annexure P-2) u/s 200 of the Act, but six Panches did not sign the same. In pursuance of the notice dated 18.01.2011 issued by the DDPO, a meeting of the Gram Panchayat was held on 25.01.2011, but again six Panches did not come present and no agenda could be discussed for want of quorum. Accordingly, The Block Development and Panchayat Officer-respondent No. (for short "the BDPO") reported the matter to

the DDPO and recommended for appointment of the Administrator of the Gram Panchayat to undertake the development works.

3. Taking, cognizance of the report of the BDPO, the DDPO again issued notice to the Sarpanch and all members Panchayat of the indicated Gram Panchayat and directed them to initiate the development works within a period of two weeks, but in vain. All the members Panchayat did not repeatedly cooperate with the petitioner-Sarpanch. As, the quorum was not complete, therefore, no effective meetings were held for the development of the village.

4. therefore, the DDPO appointed the Administrator of the Gram Panchayat to spend the grants and to complete the development works of the village, by virtue of impugned order dated 13.04.2011(Annexure P-6).

5. The petitioner-Sarpanch did not feel satisfied and preferred the instant writ petition, challenging the impugned order(Annexure P-6) relating to the appointment of the Administrator, invoking the provisions of Articles 226/227 of the Constitution of India.

6. After hearing the learned counsel for the petitioner, going through the record with his valuable help and after deep consideration of the entire matter, to my mind, there is no merit in the instant writ petition in this context.

7. Ex facie, the cosmetic argument of the learned counsel that since six members Panchayat did not cooperate with the petitioner and action ought to have been taken against them, so the impugned order(Annexure P-6) for appointment of the Administrator is illegal, is not only devoid of merit but misplaced as well.

8. As is evident from the record that repeatedly as the quorum of the Gram Panchayat was not complete, therefore, the sanctioned grant of Rs. 2 lakhs from RDF for construction of drains, streets, ponds, circular roads etc., Rs. 3 lakhs for latrines, Rs. 50,000/- for sports, Rs. 1,22,080/- for 12th Finance Commission and its. 19,000/- for Panchayat funds to manage the shamilat land, could not be spent on the development works of the village.

9. Finding no alternative, the DDPO appointed the Administrator of the Gram Panchayat, by means of impugned order dated 13.04.2011(Annexure P-6), which in substance is, as under:

According to the above report of the Block Development and Panchayat Officer, Sultanpur Lodhi and instead of giving a 15 days notice to Sarpanch and all the Panches of Gram Panchayat Dadwindi u/s 200(1) of the Punjab Panchayati Raj Act, 1994, to start the development works. But instead of receiving a notice, Sarpanch/all the Panches of the Gram Panchayat did not start the development works, nor passed any resolution regarding this. This makes the clear that the Gram Panchayat is not competent to start the development work, so, Sh. Darshan Singh VDO (SEPO) Block Sultanpur Lodhi is appointed Govt. official u/s 200 of the Punjab Panchayati Raj Act, 1994, to spend Rs. 2 lakhs from RDF for construction of drains and streets, pond, circular road etc., Rs. 3 lakhs for

latrines, Rs. 50,000/- for sports, Rs. 1,22,080/- of twelfth Finance Commission and Rs. 19,000/- Panchayat fund to manage the shamlat land. Govt. official is instructed that he will inform the undersigned after spending the amount according to Govt. instructions. A Sarpanch/all the Panches of Gram Panchayat Dadwindi are not satisfied with this order then they can challenge this order u/s 201 of the Punjab Panchayati Raj Act, 1994.

10. As is clear, Section 200 of the Act postulates that where a Panchayat makes a default in the performance of any duty other than a judicial function imposed upon it by or under this Act or under any other law for the time being in force, the DDPO may by an order in writing fix the period for the performance of the duty and if it is not performed within the period so fixed, he may appoint any other person to perform the duty and direct that the expenses arising from, and incidental to, its performance shall be paid by the Gram Panchayat.

11. Sequel, Sub-Section(2) of this Section further posits that if, in the opinion of the Director, a Panchayat has failed or is otherwise incompetent to administer its property, movable or immovable, in the best interests of the Panchayat, the Director, after giving an opportunity to the concerned Panchayat of being heard, may appoint a person to administer such property for or on behalf of the concerned Panchayat.

12. A conjoint reading of these provisions would reveal that if the Panchayat failed to perform any duty within the time specified, then the DDPO and the Director, as the case may be, have the power and jurisdiction to appoint an Administrator. Only the welfare & development of the village and larger public interest are the paramount considerations in this relevant connection. Taking an action against the erring Panches under the Act, who did not cooperate with the petitioner-Sarpanch, is one aspect, whereas to carry out the development of the village vide already sanctioned grants by the Government, is altogether another different aspect of the matter. The development of the village cannot possibly be permitted to be jeopardized or hampered by the petty(village) politics and mentality of the Panches in this relevant direction. If the argument of the learned counsel for the petitioner is accepted, then no development of the village is possible, despite the amount of grants already provided by the Government.

13. In this manner, to me, the DDPO did not have any other alternative/option, but to appoint the Administrator to spend the indicated sanctioned grants on the development of the village. Therefore, the contrary argument of the learned counsel for the petitioner "stricto-sensu" deserves to be and is hereby repelled under the present set of circumstances.

14. No other point, worth consideration, has either been urged or pressed by the learned counsel for the petitioner.

15. In the light of aforesaid reasons, as there is no merit, therefore, the instant writ petition is hereby dismissed in the obtaining circumstances of the case.

16. Needless to mention here, that the concerned respondent is directed to take appropriate statutory action against the erring Panches in this regard, within a period of three months from the date of receipt of the certified copy of this order.