
(1993) 08 P&H CK 0021
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 10063 of 1993

Jasdev Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 23-08-1993

Acts Referred:

Punjab Village Common Lands (Regulation) Act, 1961 — Section 2, 7

Citation : (1993) 105 PLR 280

Hon'ble Judges : H.K. Sandhu, J;G.R. Majithia, J

Bench : Division Bench

Advocate : R.L. Batta, for the Appellant;

Final Decision : Dismissed

Judgement

G.R. Majithia and H.K. Sandhu, JJ.—The petitioners have moved this Court for declaring the provisions contained in Sections 2(a) and 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short, the Act) as invalid, in this petition under Articles 226/227 of the Constitution of India.

2. Sections 2(a) and 7 of the Act read as under:-

"2(a) "Collector" means the Collector of the district and includes any other officer appointed by the State Government for performing the functions of the Collector under this Act;

7. Power to put the Panchayat in possession of Shamilat deh. -

(1) The Collector shall, on an application made to him by a Panchayat or by an officer, duly authorised in this behalf by the State Government by a general or special order, after making such enquiry as he may think fit and in accordance with such procedure as may be prescribed, put the Panchayat in possession of the land or other immovable property in the shamilat deh of that village which vests or is deemed to have been vested in it under this Act and for so doing the Collector may exercise the powers of a revenue court in relation to the execution

of a decree for possession of land under the Punjab Tenancy Act, 1887.

(2) An appeal against the order of the Collector under Sub-section (1) shall lie to the Commissioner and the period of limitation for such an appeal shall be sixty days from the date of the order appealed against."

3. The grouse of the learned counsel for the petitioner is that no guidelines have been laid for conferring the powers of the Collector under this Act on any of the revenue officers other than the Collector. The term "Collector" as defined under Clause (a) of Section 2 of the Act clearly states that the Collector under the Act means the Collector of the district and it includes any other officer appointed by the State Government for performing the functions of the Collector under the Act. The power to act as a Collector under the Act can only be conferred on an officer and not on any other person. Section 7 of the Act says that on receipt of an application from a Panchayat or by an officer duly authorised by the State Government by a general or special order to the effect that the land or other immovable property, mentioned in the application, is a part of shamilat deh of the village, the Collector shall hold a proper enquiry whether such land vests in the Panchayat or not and if, after such enquiry, he finds that it so vests, he will order that the Panchayat be put in possession thereof. No order u/s 7 can be passed by the Collector unless he has held proper enquiry in accordance with the procedure prescribed. The learned counsel submits that no guidelines have been given in Section 7 of the Act as to in what manner the collector has to decide that the land of which the possession is sought by the Panchayat is shamilat deh. The term "enquiry" mentioned in Section 7 pre-supposes that there is a dispute whether the land is or is not a shamilat deh and the person against whom the order is sought is in possession of the same. After the decision is rendered, the order is subject-matter of appeal before the Commissioner. If there is any irregularity or infirmity in the order, the same can be assailed before the appellate authority, namely, the Commissioner, Proper guidelines have been proved in Section 7 as to how the powers under this section have to be exercised.

4. The writ petition is devoid of any merit and is dismissed.