
(2012) 11 P&H CK 0054
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 1867 of 2012 (O and M)

Lakhbir Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 21-11-2012

Acts Referred:

Punjab Panchayati Raj Act, 1994 — Section 199, 199(1), 216, 216(2)

Citation : (2012) 11 P&H CK 0054

Hon'ble Judges : Satish Kumar Mittal, J; Inderjit Singh, J

Bench : Division Bench

Advocate : N.P.S. Mann, for the Appellant;

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—This Letters Patent Appeal has been directed against the order dated 27.08.2012 passed by the learned Single Judge, whereby the writ petition (C.W.P. No. 16426 of 2012) filed by the appellant challenging the order dated 17.05.2012 (Annexure P8) passed by the Director, Rural Development & Panchayats, Punjab (for short "the Director") on the petition filed by the appellant u/s 199(1) of the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as "the Act"), has been dismissed. Though this appeal is barred by limitation, and along with the appeal, the appellant has filed an application (CM No. 4865 of 2012) for condonation of 40 days delay in filing the appeal, yet without taking the said delay into consideration, we have heard the learned counsel for the appellant on merits.

2. After hearing the learned counsel for the appellant and going through the impugned order as well as the facts and circumstances of the case, we do not find any ground to interfere in this appeal.

3. In this case, respondent No. 6 remained as Sarpanch of Gram Panchayat of village Nanowal from 2003 to 2007. After his demitting the office of Sarpanch in the year 2009, a proceeding u/s 216(2) of the Act for the recovery of an amount

of Rs. 1,29,067/- was initiated against him by the Block Development and Panchayat Officer (for short "the BDPO"). In the said enquiry, the BDPO found that an amount of Rs. 1,29,067/- was liable to be recovered from respondent No. 6. The said order was passed after hearing respondent No. 6 and the Gram Panchayat.

4. Feeling aggrieved against the said order, respondent No. 6 filed an appeal before the District Development and Panchayat Officer. The said appeal was partly allowed vide order dated 22.07.2010 (Annexure P7) and the amount to be recovered from respondent No. 6 was reduced to Rs. 22,085/- as it was found by the Appellate Authority that during his tenure as Sarpanch respondent No. 6 had shown the excess expenditure of Rs. 22,085/- only. The said conclusion was drawn by the Appellate Authority after hearing the Gram Panchayat and perusing the entire record of the Gram Panchayat.

5. Feeling aggrieved against the said order, the appellant, who is only a resident of the village, filed a revision before the Director, Panchayats u/s 199 of the Act. The Director, after hearing the learned counsel for both the parties, dismissed the revision vide order dated 17.05.2012 (Annexure P8) while finding no illegality in the order passed by the Appellate Authority.

6. The said order was challenged by the appellant by filing the writ petition. The learned Single Judge dismissed the said petition vide order dated 27.08.2012 while observing that the authorities under the Act have made the assessment of the loss after appreciating the record of the Gram Panchayat and ordered to recover the same from the ex-Sarpanch, and such matter does not require further interference by this Court. The said order has been challenged by the appellant in this appeal.

7. Before us, learned counsel for the appellant argued that in this case the Appellate Authority has not properly appreciated the evidence available on the record and has arbitrarily reduced the amount of loss caused to the Gram Panchayat which was to be recovered from respondent No. 6. Therefore, the revisional authority as well as learned Single Judge have committed grave illegality while not interfering in such arbitrary order. We do not accept this contention. Section 216 of the Act empowers the BDPO to recover the loss, waste or misapplication of any money or property belonging to the Panchayat caused by a member or ex-member of the Panchayat, after providing opportunity of hearing to the said member and assessing the loss. Any person aggrieved from such an order has been given a right to challenge the said order in appeal within a period of thirty days from the date of such order before the District Development and Panchayat Officer. Sub-section (4) further provides that no such recovery can be effected from ex-member after the expiry of four years from the occurrence of the loss, waste or misapplication or after the expiry of two years from his ceasing to be a member, whichever is later. Sub-section (5) further provides that the State Government may call and examine the record of any order made u/s 216 for the purpose of satisfying itself as to the legality and

propriety of such order and may confirm, modify or rescind such order. In our opinion, Section 216 is the complete Code for the recovery of the loss or waste or misapplication of any money or property belonging to the Panchayat from the member or ex-member. In this Section no right has been given to challenge such an order by filing a revision before the Director by a resident of the village. However, the State Government suo motu can call and examine the record of any such order for the purpose of satisfying itself as to the legality and propriety of such order.

8. In the present case the appellant is a resident of the village. He did not move an application before the State Government under sub-Section (5) of the Act for exercising the suo motu powers of the State Government. On the other hand, he filed a revision before the Director u/s 199 of the Act. A perusal of Section 199 reveals that under the said provision a power has been given to the Director to cancel or suspend the resolution of a Panchayat if, in his opinion, such resolution (a) is not legally passed; or (b) is in excess of abuse of the powers conferred by or under this Act or any other law; or (c) is contrary to the interests of the public or, likely to cause waste or damage of Samiti Fund or Zila Parishad; or of property of a Panchayat Samiti or Zila Parishad; or (d) on its execution is likely to cause danger to human life, health or safety or is likely to lead to a riot or affray. This provision does not empower the Director to set aside the orders passed by the BDPO or the Appellate Authority u/s 216 of the Act. Though this point was not raised yet the Director at his own came to the conclusion that there was no illegality in the order passed by the Appellate Authority. In view of these facts, in our opinion when the competent authority u/s 216 of the Act, i.e., Appellate Authority, has considered the entire material and found that the determination of the loss by the BDPO was not correct and it had corrected the same by reducing the amount of recovery to Rs. 22,085/-, no interference is required in the order in exercise of the writ jurisdiction. Thus the learned Single Judge has rightly held that the order passed by the Appellate Authority does not require any interference by this Court in the writ jurisdiction. In view of the above, the appeal is dismissed.