
(1996) 05 P&H CK 0205
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1179 of 1981

Lal Chand Sharma

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 03-05-1996

Acts Referred:

Citation : (1997) 2 PLJ 343 : (1997) 2 PLR 653 : (1997) 3 RCR(Civil) 404

Hon'ble Judges : T.H.B.Chalapathi, J

Advocate : Mr. Amol Rattan, AAG, Haryana., Bhoop Singh, Advocate., Advocates for appearing Parties

Judgement

T.H.B. Chalapathi, J.—This writ petition is filed to quash the order of the Secretary to Government, Haryana Development and Panchayat Department dated 9.3.1981.

2. The petitioners are members of the Gram Panchayat, Gulkani in Jind District. A memorial was constructed in memory of persons who died in rail accident during the Hindi Agitation in the year 1964/65 known as Shaheed Samarak. The Gram Panchayat passed a resolution on 31.12.1976 to donate the Shamlat land measuring 8 Kanals in Rect. No. 41, Killa No. 16 to the Samarak and referred the matter to the Government for its sanction. The petitioners filed representations to the Government not to grant any sanction for the gift of the Shamlat land to the Shaheed Samarak. Thereafter the Minister for Development and Panchayat, Haryana, declined the approval and ordered that the approval be accorded if the Gram Panchayat again passes a resolution for gifting the land to the Samarak. Thereafter the Panchayat of which the petitioners are also members sent a resolution to the Director of Panchayats stating that they do not want to donate the land to the Samarak. The 3rd respondent, who was Sarpanch of the Gram Panchayat evaded to call a meeting of the Gram Panchayat and therefore, the petitioners were compelled to send a letter/resolution on their own on 26.11.1980. According to the petitioners, there was no valid resolution after 31st December, 1976 of the Gram Panchayat to donate the land to the Samarak. The

petitioners, therefore, filed this writ petition to quash the order of the State Government dated 9.3.1981 according approval for the gift of Shamlat land measuring 8 Kanals by the Gram Panchayat to Balidan Samarak, Gulkani as per resolution of the Gram Panchayat bearing No. 13 dated 31.12.1976.

3. In the written statement filed by the 4th respondent Shaheed Samarak alias Balidan Samarak, it is contended inter alia that the petitioners have no legal right. It is further stated that two young men died during the Hindi agitation and their parents contributed about Rs. 15,000/- to the local Arya Samaj for the construction of Arya Samaj mandir in the memory of the two above said persons and Arya Samaj Mandir started religious discourses combined with physical yogic exercises and also started free dispensary for serving the citizens of Gulkani and serving the villagers of surrounding villages. The Arya Samaj, Gulkani created a trust known as Shaheed Samarak alias Balidan Samarak with the object of propagating the Vedic religion as propounded by Maharshi Daya Nand, propagating Sanskrit language, inculcating national cultural values in the youth, holding camps for the practice of Brahmcharya, and for opening of Akharas for the practice of yogic exercises, for propagating in favour of prohibition and for opening charitable dispensaries and such other charitable and religious activities. Therefore, according to the 4th respondent, the resolution of the Gram Panchayat dated 31.12.1976 resolving to gift 8 kanals land to the Samarak is valid and that the said property was not fetching any income to the Gram Panchayat and the gift is in the interest of the villages.

4. During the course of arguments, a resolution dated 14.2.1982 was placed before me. This resolution reads as follows :

"Resolution No. 73 : It is decided unanimously that as per resolution No. 13 passed on 31.12.1976 by the Gram Panchayat Gulkani the case of gift to Shamlat land to Balidan Samarak Gulkani measuring 8 kanals Kila No. 41/16 was sent to Director Panchayats for sanction. The said sanction has been received from Director Panchayats Haryana vide their letter No. SI (HP) 8/1090710, dated 10.3.1981. The gift deed of which has already been executed by the Panchayat on 27.3.1981 in favour of Balidan Samarak Gulkani and Girdawari of this land have already been corrected. Accepted by Gram Panchayat unanimously."

5. Thus the order of the Government dated 9.3.1981 has been implemented. Further, on the facts of the case, I am of the view that the gift of the land to Samarak is valid under law. The objects of the Samarak, as stated in the written statement, clearly show that the gift was made under rule 13 of the Punjab Village Common Lands (Regulation) Rules, 1964. According to this rule, a Panchayat may gift land in Shamlat deh vested in it under the Act for the purpose of hospital, dispensary or educational or charitable institutions as may be approved by the Government with the previous approval of the Zila Parishad or the Government. The objects of the Samarak as can be seen from the written statement are, that it is to run charitable institution and also a free dispensary. Therefore, the gift of the land of 8 kanals is valid under rule 13 of the Punjab

Village Common Lands (Regulation) Rules, 1964. The Gram Panchayat passed the resolution and the Government accorded its sanction in pursuance of which the Gram Panchayat unanimously resolved and confirmed the gift in its meeting dated 14.2.1982. I do not find any ground warranting interference with the order of the Government dated 9.3.1981 vide Annexure P 6.

6. In result, the writ petition fails and is accordingly dismissed. There will be no order as to costs.