

(1979) 08 P&H CK 0015
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 305 of 1968

Makhan Singh and Others

APPELLANT

Vs

Haryana Government and Others

RESPONDENT

Date of Decision : 21-08-1979

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Criminal Procedure Code, 1973 (CrPC) — Section 107, 151
Penal Code, 1860 (IPC) — Section 506
Police Act, 1861 — Section 15, 15(1), 15(5)

Citation : (1980) 1 ILR (P&H) 511

Hon'ble Judges : Sukhdev Singh Kang, J

Bench : Single Bench

Advocate : Arun Mehra, for the Appellant; B.R. Premi, for A.G., for the Respondent

Judgement

Sukhdev Singh Kang, J.—Makhan Singh and 86 others residents of village Ruksana, Tehsil Kaithal, District Karnal, have filed this petition under Articles 226/227 of the Constitution of India, for the issuance of a writ of certiorari quashing the notification dated September 22, 1967, copy of which is appended to this petition as Annexure "A".

2. The Petitioners are residents and law abiding citizens of village Ruksana, Tehsil Kaithal, District Karnal. Makhan Singh, Petitioner is the Sarpanch of the village and Petitioners No. 2, 3 and 4 are the members of the Panchayat. Petitioner No. 5 is the Lambardar of the village. There were certain civil cases and criminal litigation between Makhan Singh, Petitioner on the one hand and Mansa Singh and Kundan Singh, Petitioners on the other hand, regarding some agricultural land in the village which led to proceedings under Sections 107/151, Code of Criminal Procedure, and other cases. However, in the months of July-August on the intervention of the village Panchayat and other respectables of the village, the differences between the two parties were settled, and two criminal cases were actually compromised in Court. However, the Station House Officer and

some senior police officers were annoyed with the residents of the village. At their instance a notification dated September 22, 1967, has been issued u/s 15 of the Police Act. The relevant extract from the same is reproduced as under:

Under the provisions of Section 15 of the Police Act v. of 1861, the Govrenor of the Haryana is pleased to declare that the area comprising village Ruksana in the jurisdiction of Police Station Assandh, district Karnal, is in a disturbed state and because of the misconduct of the inhabitants of the aforesaid area, it is expedient to increase the number of police.

Through this notification it has been declared that the village of the Petitioners is in a disturbed state and the villagers are guilty of misconduct and for that reason it was expedient to increase the number of police. At this stage, it will be useful to reproduce Section 15 of the Police Act.

15. Quartering of additional police in disturbed or dangerous districts:

(1) It shall be lawful for the State Government by proclamation to be notified in the Official Gazette,, and in such other manner as the State Government shall direct, to declare that any area subject to its authority has been found to be in a disturbed or dangerous state, or that, from the conduct of the inhabitants of such area or of any class or section of them, it is expedient to increase the number of police.

(2) It shall thereupon be lawful for the Inspector-General of Police or other officer authorized by the State Government in this behalf, with the sanction of the State Government, to employ any police force in addition to the ordinary fixed complement to be quartered in the area specified in such proclamation as aforesaid.

(3) Subject to the provisions of Sub-section (5) of this section, the cost of such additional police force shall be borne by the inhabitant of such area described in the proclamation.

(4) The Magistrate of the district, after such enquiry as he may deem necessary, shall apportion such cost among the inhabitants who are, as aforesaid, liable to bear the same and who shall not have been exempted under the next succeeding Sub-section. Such apportionment shall be made according to the Magistrate's judgment of the respective means within such area of such inhabitants.

(5) It shall be lawful for the State Government by order to exempt any persons or class or section of such inhabitants from liability to bear any portion of such cost.

(6) Every proclamation issued under Sub-section (1) of this section shall state the period for which it is to remain in force, but it may be withdrawn at any time or continued from time to time for a further period or periods as the State Government may in each case think fit to direct.

The notification does not reveal any grounds or reasons for reaching the

conclusions for passing the impugned order. It simply reproduces the language of the statute. It is not clear as to in what manner the village is in a disturbed state. It is also not mentioned that the villagers are guilty of which acts of omission or commission which had been termed as misconduct. Vast powers have been given to the authorities by Section 15 of the Act. By their very nature, these powers have to be exercised after due deliberation and with circumspection. These powers cannot be exercised arbitrarily. There is no appeal or any other remedy against this order. The order results in imposing a heavy financial liability on the villagers, including the Petitioners. According to the Petitioners, they shall have to pay about Rs. 60,000. This plea has been admitted by the State in the written statement. One of the ways to check the evil of arbitrariness is that the authority exercising the power must support its conclusions with cogent and relevant reasons. In the present case, no reason whatsoever has been given. So the order suffers from the vice of arbitrariness and is liable to be struck down on this score alone.

3. Before passing this order, the Petitioners or other residents of the village had been given no opportunity to convince the concerned authorities that there was no need for increasing the number of the police. In the return, it has been said that there are two factions in the village led by Makhan Singh and Mansa Singh. Now both Makhan Singh and Mansa Singh have jointly filed this petition. No criminal case had been registered in the year 1967. The order has been passed on September 22, 1967. It shows that the village was perfectly peaceful during these nine months of 1967. It is also averred that two criminal cases had been compromised. Even in the year 1966 also, only four cases were registered. Two of them related to the illicit arms, one to the Excise Act and the fourth u/s 506, Indian Penal Code. There was no case involving violence. So, if the Petitioners had been given an opportunity, they would have convinced the authorities that there was no need to post the punitive police force in the village. The principles of natural justice are all pervasive. The language of Section 15 or for that matter the whole of the Police Act does not exclude in terms or by necessary intendment the application of the principles of natural justice. On this score also the order is liable to be struck down.

4. For the reasons given above, I accept this petition and quash the notification dated September 22, 1967. There shall be no order as to costs.