
(1999) 07 RAJ CK 0005
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2324 of 1999

Padam Singh

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 08-07-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 2 RLW 707 : (2000) 3 WLC 147 : (1999) 1 WLN 675

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—The petitioner is a Sarpanch of Gram Panchayat Ramgarh which is on the border. He has challenged In this petition the impugned order at Annexure-P14 dated 17.6.1999 passed by the Collector Jaisalmer by constituting a committee under the Chairmanship of Vikas Adhikari with AEN, Headmaster of Senior Secondary School, Ramgarh, Gram Sevak, Gram Panchayat Ramgarh and Patwari Ramgarh in exercise of his powers u/s 33(11) of the Rajasthan Panchayati Raj Rules 1996 (for short the Rules") for completing the development work which could not be complete after the election of Sarpanch, Gram Panchayat Ramgarh and to report about the completion of the work.

2. Shri Udawat Senior Advocate has submitted that by passing the order Annexure-P14 indirectly the petitioner is removed from the post of Sarpanch. He submitted that it is only Sarpanch who must complete the pending development works of the Panchayat, for which no committee required to be constituted. Relying upon the provisions of Section 32 and mainly Section 32(3) Shri Udawat submitted that it is only in the absence of Sarpanch or Up- Sarpanch their office remaining vacant or otherwise, the powers functions and duties of the Sarpanch shall be exercised by such elected member of the Panchayat and in such a manner as the competent authority may direct. But, for that no committee is required to be constituted. He submitted that in this case the Sarpanch as well as

Up-Sarpanch both were very much present, therefore, the impugned order at Annexure-P14 is bad in law and against the provisions of Section 32(2) of the Rajasthan Panchayati Raj Act 1994 (for short "the Act"). He further submitted that work is almost complete, therefore, there is no question of constituting committee.

3. Considering the averments made in the petition as well as the correspondence entered into between the parties annexed with this petition, one fact is very clear that some work could not be completed it is true that powers, functions and duties of Sarpanch and Up-Sarpanch are mentioned in Section 32(3) of the Act. Ordinarily, the powers of Sarpanch or Up-Sarpanch are to be exercised by the elected members of the Panchayat as directed by the competent authority. However, if the development works could not be completed in time by the Sarpanch then in my opinion there is nothing wrong on the part of the Collector to constitute the committee of five persons headed by Vikas Adhikari Panchayat Samiti. Rule 33(11) of the Rules gives powers to the Collector to constitute such committee. The allegation made in this petition is that Vikas Adhikari Shri Mithalal was demanding commission at the rate of 7% releasing the payment for instalments. It appears that on failure of Sarpanch to complete the work within time bound programme such allegations seems to have been made. That apart, on constituting of the committee headed by Vikas Adhikari of Panchayat Samiti himself will not be allowed to issue order in any other matter. There are in all 5 persons in the committee. There is no question of now giving any commission for releasing the payment in instalments to the Vikas Adhikari. It may also be stated that the committee is constituted by the Collector Jaisalmer only because the Sarpanch was not able to complete the development work within time limit.

4. These are the administrative decisions of the committee which ordinarily would not be interfered by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution. The fact is that the village is on the border area therefore it is all the more necessary that development works should be completed at the earliest. This type of administrative orders should not be interfered by the Court.

5. Last submission of Mr. Udawat is that without hearing the Sarpanch, the impugned order was passed. For constituting such committee, the Sarpanch was not required to be heard. That apart the documents annexed with this petition shows that the petitioner was given ample opportunity to complete the work which could not be completed within time limit, therefore, there is no alternative but to constitute the committee.

6. In view of the above discussion, I do not find any substance in this petition and accordingly it is dismissed.

7. As the main petition is dismissed, the stay petition is also dismissed.