
(2013) 12 P&H CK 0172
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 26501 of 2013

Piara Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 03-12-2013

Acts Referred:

Citation : (2013) 12 P&H CK 0172

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Judgement

Rakesh Kumar Jain, J.—The petitioner is the Sarpanch of Gram Panchayat of village Darauli Upper, Tehsil Anandpur Sahib, District Roop Nagar. There are 10 Panches in the Gram Panchayat. The petitioner is aggrieved against the order dated 28.10.2013 passed by respondent No. 3, who has appointed Sukhdev Sharma, VDO, Sri Anandpur Sahib, as an Administrator for a period of 3 months for performing some duties in terms of Section 200 of the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as the "Act"). In brief, the Panchayat Secretary informed the Block Development and Panchayat Officer (BDPO) that certain grants are lying unattended because of lack of unanimity between the members of the Panchayat on the basis of which BDPO, Sri Anandpur Sahib recommended appointment of the Government Official to look after that grant. Thus, respondent No. 3 served a notice dated 02.10.2013 upon the petitioner and all Panchayat members u/s 200 of the Act asking them to start the development works within 15 days, otherwise, action was proposed to be taken against them u/s 200 of the Act.

2. Another notice was issued on 17.10.2013 giving 8 more days time but still, due to party faction between the Panchayat members, the development work of the village was not started. Thus, respondent No. 3, exercising his power u/s 200 of the Act, appointed Sukhdev Sharma, VDO, Sri Anandpur Sahib, as Administrator for a period of 3 months with a direction that the grants be spent in time as per government instructions and rules and be entered in the MB and

UC be sent, by making it clear that in the matter of spending the grant, if any irregularity is found, then the Administrator would be responsible.

3. Counsel for the petitioner has submitted that due to non-cooperation of the members of the Panchayat, the development work is not being carried out because of which the representatives members of the Gram Sabha may not be deprived of their right with the appointment of the Administrator.

4. I have heard learned counsel for the petitioner and perused the record.

5. Before I proceed further, it would be relevant to refer Section 200 of the Act, which reads as under:--

200. Default of duties by the Panchayats (1) Where a Panchayat makes a default in the performance of any duty other than a judicial function imposed upon it by or under this Act or under any other law for the time being in force,-

(i) in the case of a Gram Panchayat, District Development and Panchayat Officer; and

(ii) in the case of a Panchayat Samiti or a Zila Parishad, the Director; may by an order in writing fix the period, for the performance of the duty and if it is not performed within the period so fixed, he may appoint any other person to perform the duty and direct that the expenses arising from, and incidental to, its performance shall be paid by the Gram Panchayat.

(2) If, in the opinion of the Director a Panchayat has failed or is otherwise incompetent to administer its property, movable or immovable, in the best interests of the Panchayat, the Director, after giving an opportunity to the concerned Panchayat of being heard may appoint a person to administer such property for or on behalf of the concerned Panchayat.

Provided that the Director may at any time terminate such arrangement and thereupon the administration of the property shall be resumed by the concerned Panchayat.

(3) A person appointed under sub-section (2) shall exercise all such powers of the concerned Panchayat under this Act, other than the judicial powers conferred upon it, or under any other law for the time being in force, as may be necessary for the management of the property and shall be entitled to receive such remuneration as may be fixed by the Director.

(4) The income from the management of the property referred to in Sub-section (2) shall be credited to the fund of the concerned Panchayat and all expenses arising from and incidental to the administration of such property, including the remuneration payable to the person appointed under Sub-section (2), shall be met out of the concerned Panchayat Fund.

(5) If the expenses referred to in sub-section (1) are not paid-

(i) in the case of a Gram Panchayat the District Development and Panchayat

Officer, and

(ii) in the case of a Panchayat Samiti or a Zila Parishad, the Director;

may make an order directing the person having custody of the fund of the Panchayat concerned, to make the payment in whole or in part from such fund and if such a person does not comply with the order, recover the amount from the fund of the Panchayat as arrears of land revenue.

6. According to the aforesaid provision, where a Panchayat makes a default in performance of its duties other than a judicial function imposed upon it, the D.D.P.O. may, in writing, fix the period for the performance of the duty and if it is not performed within the period so fixed, he may appoint any other person to perform the duty and direct that the expenses arising from, and incidental to, its performance shall be paid by the Gram Panchayat. This provision has been enacted to meet a situation where the Panchayat, as a whole, is not in a position to perform the duties under the Act or any other law for the time being in force but before taking any action, grace period is granted in writing by the District Development and Panchayat officer to perform the said duty and in case it is not performed, only then a person is appointed for the purpose of performance of that duty. In the present case, the District Development and Panchayat Officer gave a notice and fixed the time for performance of certain works of the Panchayat and when the said work was not performed within the time fixed, appointed the Administrator for a period of 3 months for the purpose of performance of the said work. As a matter of fact, the order is passed not against the Sarpanch individually but against the entire Panchayat, that too for a short span of time. If the Sarpanch is aggrieved against the misconduct and negligence of the elected Panches, who are not supporting him, he may file a complaint against them in accordance with law to the Competent Authority and if the said complaint is made, insofar as the present case is concerned, I direct that those complaints, made at the instance of the Sarpanch, be dealt with by the Competent Authority expeditiously, in accordance with law. Insofar as the impugned order is concerned, it cannot be said that it has been passed in violation of Section 200 of the Act and thus, the present petition is hereby dismissed.