

**(2012) 11 SHI CK 0093**  
**In the High Court Of Himachal Pradesh**  
**Case No : CWP No. 2342 of 2010-C**

Shri Nihal Chand

APPELLANT

Vs

Shri Bhagat Ram and The Gram Panchayat, Pandwin, District  
Hamirpur, H.P.

RESPONDENT

**Date of Decision :** 02-11-2012

**Acts Referred:**

Himachal Pradesh Panchayati Raj Act, 1994 — Section 12, 15  
Penal Code, 1860 (IPC) — Section 228

**Citation :** (2012) 11 SHI CK 0093

**Hon'ble Judges :** V.K. Ahuja, J

**Bench :** Single Bench

**Advocate :** Sanjay Sharma, for the Appellant; B.C. Verma, Advocate for  
Respondent No. 1 and Mr. J.K. Verma, D.A.G., for the Respondent

## Judgement

V.K. Ahuja, J.—This order shall dispose of the present writ petition filed by the petitioner. The following relief has been claimed by the petitioner:-

(i) That the order dated 19.12.2009 (Annexure P-3) may kindly be quashed and set aside and that of the learned Judicial Magistrate, Hamirpur may kindly be upheld and the petitioner may very kindly be exonerated from the penalty as imposed by the Gram Panchayat without adopting proper procedure of law but is just punishment with oblique motive.

Notice of the petition was issued to the respondents, who filed reply.

2. I have heard learned counsel for the parties and have gone through the record placed before me.

3. On a complaint made to Panchayat, Pradhan, Gram Panchayat Pandwi, vide its impugned order Annexure P-1 dated 1.9.2008, imposed fine of Rs. 25/- u/s 15 of the H.P. Panchayat Raj Act and in case violation is continued, the fine was imposed at the rate of Rs. 5/- per day from 28.4.2007 onwards.

4. An appeal was preferred by the petitioner before the Court of Judicial Magistrate Ist Class Court No. III, Hamirpur and vide its decision dated 1.2.2008, the appeal was partly allowed insofar as it relates to Section 228 IPC relating to fine. However, it was observed that the appeal against the order u/s 12 of the H.P. Panchayat Raj Act does not lie.

5. Thereafter, the said order was challenged before the Sub Divisional Magistrate, Hamirpur, who vide his impugned order dated 19.12.2009 dismissed the appeal.

6. Being aggrieved, the petitioner has filed the present petition.

7. During the course of arguments, status report was also called from the Sub Divisional Magistrate after visiting the spot in presence of the parties and he submitted his report alongwith the statement of the petitioner. From a perusal of the status report, it is clear that the branches of the trees have already been cut and insofar as the flow of dirty water is concerned, the petitioner has stated that he has installed pipe for the flow of dirty water and will make a pit. As agreed by the petitioner, the pit shall be made by him, within a period of one month from today, failing which, the respondents can move the Court for appropriate relief and revival of the petition. In view of the above, the petition stands disposed of accordingly, so also the pending miscellaneous applications, if any. Interim order, if any, stands vacated.