
(2002) 08 P&H CK 0040

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 16905 of 2001

Smt. Harbans Kaur Kainth Sarpanch

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 29-08-2002

Acts Referred:

Punjab Panchayati Raj Act, 1994 — Section 200(1)

Citation : (2003) 1 RCR(Civil) 354

Hon'ble Judges : G.S. Singhvi, J

Bench : Single Bench

Advocate : C.L. Verma, for the Appellant; Rajiv Malhotra, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

G.S. Singhvi, J.—This is a petition for quashing orders Annexure P-4 dated 10.4.2001 and Annexure P-5 dated 12.9.2001 passed by the District Development and Panchayat Officer, Nawanshahr (respondent no. 2) and the Director-cum-Secretary to Government, Punjab, Rural Development and Panchayats Department, respectively.

2. The petitioner was elected as Sarpanch of Gram Panchayat, Ram Raipur, Tehsil and Distt. Nawanshahr in the election held in June, 1998. Since then, she had been discharging the functions of the office of Sarpanch smoothly and spending the grants for the purposes the same were given. In 1998, one of the panches, namely, Shri Nirmal Singh, who is an influential person, went to Canada without any prior information to the Gram Panchayat and he returned only in March, 2001. His absence was reported to respondent Nos.2 and 3 vide resolution dated 26.7.2000 (Annexure P-3) passed by the Gram Panchayat, but no action was taken against him. Instead, vide his letter dated 30.3.2001, respondent No.3 reported that quorum of Gram Panchayat, Ram Raipur was not complete because four members were on each side and Sarv Shri Surinder Singh, Nirmal Singh, Harbhajan Singh and Smt. Kulwinder Kaur (all Panches} requested through a

joint statement that an Administrator may be appointed to complete the pending development works. In his letter, respondent No.3 also recommended for appointment of an Administrator. Accordingly, respondent No.2 passed order dated 10.4.2001 (Annexure P4) u/s 200(1) of the Punjab Panchayati Raj Act, 1994 (for short, "the Act") appointing Shri Devi Dayal, V.D.O. Block Nawanshahr as Administrator of Gram Panchayat Ram Raipur for completing the pending works. The petition filed by the petitioner u/s 201 of the Act against order dated 10.4.2001 was dismissed vide order dated 12.9.2001 (Annexure P-5) by the Director-cum-Special Secretary, Punjab Government, Rural Development and Panchayat Department.

3. The petitioner has challenged the appointment of Administrator mainly on the ground that the impugned order is ultra vires to Section 200(1) of the Act.

4. Since no one had appeared on behalf of the respondents despite service, they were proceeded ex parte and the writ petition was admitted by the Division Bench for hearing vide order dated 29.1.2002.

5. The petitioner has filed C.M.No. 25120 of 2002 for fixing the case on some actual date because, according to her, it is covered by the judgments of this Court. The same has been allowed by a separate order of today and the counsel for the parties have been heard.

6. In *Hakim Singh v. State of Punjab and Ors.* (1994)107 P.L.R.141, a Division Bench of this Court interpreted the provisions of Section 200 of the Act and quashed the appointment of Administrator by making the following observations:-

"A bare perusal of the aforesaid provision would show that it is only in one contingency that the action could be taken, i.e., if the Deputy Commissioner or the District Development and Panchayat Officer had fixed a period for performance of some function other than judicial function by the Panchayat that on failure to do so, Administrator could be appointed. There is no allegation in the written statement that any such period for performance of function was fixed by the competent authority, mentioned therein. It is a fact that a grant was made available to the Panchayat for being spent. However, no period was fixed for utilisation of such funds by the Panchayat."

7. The same view has been expressed in *Harbant Singh Vs. State of Punjab and Others*, ; *Amrik Singh Vs. District Development and Panchayat Officer and Others*, ; C.W.P. No.18594 of 2001 - *Jasvir Kaur v. State of Punjab and Ors.** decided on 3.1.2002; C.W.P. No.13958 of 2001 - *Banta Singh v. State of Punjab and Ors.*,5 decided on 19.2.2002; C.W.P. No. 18695 of 2001 - *Gur-mail Singh v. State of Punjab and Ors.*,** decided on 6.3.2001 and C.W.P. No.18024 of 2001 - *Jit Singh v. State of Punjab and Ors.*,? decided on 3.4.2002.

8. If the case in hand is examined in the light of the proposition of law laid down in the above mentioned cases. I do not have any hesitation to hold that the impugned orders are vitiated by an error of law. The failure of the Gram

Panchayat to spend the grants received from the State Government due to lack of support of majority of Ranches to the Sarpanch cannot be made a ground to deprive public representatives of their right to effectively hold the elective offices. The lack of support to the Sarpanch, which is largely due to the fact that the elections are contested at the Panchayat level on the party lines, cannot be a valid ground for exercising powers under Sections 200(1) of the Act.

9. I am further of the view that order Annexure P-4 is liable to be quashed on the short ground that before appointing the Administrator, respondent no. 2 did not give notice to the petitioner requiring her to perform a particular function. Even the Director-cum-special Secretary to Government, Punjab, Department of Rural Development and Panchayats failed to exercise his power to correct this wrong.

10. For the reasons mentioned above, the writ petition is allowed. Orders Annexure P-4 and P-5 are declared illegal and quashed.