
(1995) 12 P&H CK 0083
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 8175 of 1993

Sube Singh and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 20-12-1995

Acts Referred:

Punjab Village Common Lands (Regulation) Rules, 1964 — Rule 13

Citation : (1996) 112 PLR 503

Hon'ble Judges : N.K. Kapoor, J

Bench : Single Bench

Advocate : C.B. Goel, for the Appellant; D.N. Verma and Ashok Verma for Respondent No. 3 and Azad Singh, AAG, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Kapoor, J.—Petitioners seek issuance of a writ of certiorari or any other appropriate writ, order or direction for quashing of the resolution dated 4.5.1991 and the order of the Commissioner and Secretary to Govt. Haryana dated 11.8.1992, Annexures P-I and P-2 respectively.

2. The Petitioners are residents of village Jagdishpur and claim themselves to be proprietors of the village and so have challenged the resolution passed by the Gram Panchayat, Annexure P-I, whereby the Gram Panchayat unanimously decided to gift the land approximately measuring 57 acres in favour of Krishi Vigyan Kendra, a constituent of Haryana Agriculture University, Hissar. It is the case of the petitioners that no such resolution was passed by the Gram Panchayat and otherwise too the resolution stated to have been passed was not in conformity with the provisions of the Punjab Village Common Lands (Regulation) Rules, 1964 (for short "the Rules") and so the gifting away of 57 acres of land by invoking the power in terms of Rule 13 of the Rules was liable to be set aside on the short ground that gifting of the valuable property of the gram panchayat was to achieve no tangible benefit to the inhabitants of the village. Otherwise too, the land being part of char an of the village, the same could not

be gifted as it would deprive the inhabitants of the village from the use.

3. Pursuant to the notice of motion issued by the Court separate written statements have been filed by respondents No. 3 and 4 justifying the action taken by the Gram Panchayat as well as approval by the Commissioner. Respondent No. 4 in his reply raised two preliminary objections namely that the writ petition raises disputed questions of facts which cannot be matter of adjudication and so the petition deserves to be dismissed on this ground; secondly, that the petitioners have not disclosed the basis for challenging the valid orders passed by the authorities concerned. On merit it has been stated that the land in dispute is owned by the Gram Panchayat and that the Gram Panchayat vide resolution, Annexure P-I, decided to gift away the land in favour of Krishi Vigyan Kendra and the action so taken is as per its powers under Rule 13 of the Rules. Accordingly, necessary permission too had been granted by the concerned authority and so there is no infirmity in the action taken by the Gram Panchayat nor the same is violative of the provisions of the Punjab Village Common Lands (Regulation) Act, 1961 (for short "the Act") and the Rules.

4. Respondent No. 3 in its separate written statement has too raised preliminary objections, namely that the precise objection now raised by the petitioners was subject matter of adjudication in CWP No. 10721 of 1993 decided by this Court on 4.4.1994 where in the gift made by the gram panchayat to an educational institution has been upheld. In that case also, Gram Panchayat of Damla gifted away some land for the construction of Krishi Vigyan Kendra at Yamunanagar and so the present writ petition is liable to be dismissed on this ground alone. Secondly, admittedly, the land gifted away being part of shamlat deh is owned by gram panchayat and so could legally gift away the same as contemplated by Rule 13 of the Rules. On merit, answering respondent justified the action taken by the gram panchayat as well as highlighted the various concessions which have been given to the inhabitants of the village on account of the gift in favour of Krishi Vigyan Kendra/Haryana Agriculture University. Justifying the gift made in its favour the answering respondent has made mention of the various benefits which are to accrue to the inhabitants of the village on account of the establishment of this Kendra. The project which is being set up is entirely financed by ICAR. According to the answering respondent, Kendra has already spent a sum of Rs. 40,000/- for purchasing of implements as well as a tractor for purposes of developing the land which is presently lying idle and useless. As per the scheme, as and when Kendra is set up in the village, seeds, fertilizer, cattle feed and medicines worth about Rs. 20,000/- per annum will be given free of costs to the village. This Kendra will employ about 50 daily wagers on this project. Dealing with the avowed purpose of the project, it was stated that besides providing job to the people of the village on a large scale, this will help in developing other facets of the village life.

5. Challenging the resolution dated 4.5.1991, learned counsel for the petitioners argued that the same is not in conformity with the Rules. According to the

counsel, Rules contemplates a clear three days notice intimating the day, time and place of meeting and business to be transacted at the meeting. In the present case no such intimation had been sent to the members of the panchayat. This being so, the so called resolution deserves to be set aside on this ground alone. Otherwise too two Panches, namely, Rajbir and Ram Narain have sworn affidavits stating therein that no such meeting of the Gram Panchayat was convened on 4.5.1991 when resolution dated 4.5.1991 is alleged to have been passed. The affidavits are Annexures P-3 and P-4 and the so called unanimous resolution in the light of the affidavits filed by the two panches clearly bring out the falsity, of the stand now set up by respondent No. 4. Even the gift in favour of Krishi Vigyan Kendra is not in conformity with Rule 13 of the Rules. Besides this, the land which has been gifted to the Krishi Vigyan Kendra was in fact, being put to common use i.e. for grazing of cattle etc. and this gifting of about 57 acres of land hardly leaves any other land to be used for common purposes of the village. As a matter of fact pro-rata cut was imposed upon the holding of the proprietors and so this big chunk of land was carved out to be used for common purposes of the village at the time of consolidation of holding in the village. Thus, in fact, it was the property of the proprietors of the village and so could not be gifted away especially when no purpose was to be achieved by such a gift. The action of the authorities is not only mala fide but also not in conformity with the provisions of the Act and the Rules. Accordingly, the resolution as well as the approval accorded by the Governor deserves to be quashed.

6. Learned counsel for the respondents, on the other hand, argued that the present petition is wholly misconceived on the short ground that the petitioners have no locus standi to challenge a valid resolution passed by the Gram Panchayat and that too by invoking the writ jurisdiction of this Court. Elaborating, the counsel argued that firstly the resolution passed by the Gram Panchayat is highly beneficial to the inhabitants of the village. It is with a view to achieve almost a u-nanimous decision that the members of the Gram Panchayat chose to ascertain the wishes of the inhabitants of the village and so convened a meeting on 4.5.1991. At this meeting not only the members of the Panchayat came present but even other residents too participated who deliberated in its proceedings and finally decided that since the proposed setting up of Krishi Vigyan Kendra will prove beneficial to its inhabitants and so resolved to gift land to Krishi Vigyan, Kendra. The resolution was reduced into writing and signed by all the Panches. This resolution of gifting away of 57 acres of land is in terms of Rule 13 of the Rules.

7. As per Rule 13 of the Rules, a Panchayat can gift land in shamlat deh for the purpose of a hospital, dispensary or educational or charitable institutions as may be approved by the Government with the previous approval of (a) Zila Parishad when the area does not exceed two acres (b) the Govt. when the area exceeds two acres. It is in terms of Rule 13 of the Rules that the permission of the Government of Haryana was sought which was accorded vide Annexure P-2 dated 11.8.1992. Justifying the action initiated by the Gram Panchayat and

approved by the Government as well, learned counsel for the contesting respondents made reference to CWP No. 10721 of 1993, decided on 4.4.1994 wherein identical plea had been raised but repelled by the Court and so urged that the writ petition deserves to be dismissed being devoid of any substance.

8. I have heard learned counsel for the parties. Vide resolution Annexure P-I dated 4.5.1991, Gram Panchayat of village Jadishpur unanimously decided to gift away 57 acres of shamlat deh to Krishi Vigyan Kendra, an ancilliary of the Haryana Agriculture University, Hissar. The petitioners objection to the passing of this resolution is two-fold; (i) that the resolution has not been passed in terms of Rule 6 of the Punjab Gram Panchayat Rules, 1965 and (ii) that such a big chunk of land could not be gifted away to Krishi Vigyan Kendra nor such a gift can be termed to be beneficial to the inhabitants of the village. Rule 6 afore-said deals with the manner in which the meeting of the Gram Panchayat is to be convened i.e. a three days notice is to be issued to each one of its members intimating the date time and place of meeting as well as business to be transacted. A bare perusal of Rule 6 of the Punjab Gram Panchayat Rules, 1965, makes it abundantly clear that this is intended to inform the members of the panchayat about the meeting and its purpose so that no grievance could be made by the members of the Panchayat and for none else. Admittedly, the petitioners were not members of the panchayat and so the objection now raised is meritless. Similarly, I give no credence to the affidavits filed by Sarv. Sh. Rajbir and Ram Narain Panches for the reason that the resolution was passed in their presence on 4.5.1991 and till this day no such grievance has been made by them against the resolution in terms of Section 97 of the Punjab Gram Panchayat Act. u/s 97 of the Punjab Gram Panchayat Act, Deputy Commissioner or Sub Divisional Officer, as the case may be by written order can suspend the execution of any resolution of the Gram Panchayat.

9. The matter could be examined from another angle also. In the present case, it is the case of the respondents that a meeting was convened under the Chairmanship of Ram Singh Sarpanch and the members of the Gram Panchayat as well as inhabitants of the village so as to elicit their opinion with regard to gifting of the panchayat land. A decision was taken by all the residents of the village that the proposed gifting of land be approved in favour of Krishi Vigyan Kendra and it is in pursuance to the will of the inhabitants of the village that the resolution was passed. Rule 13 of the Rules envisages gifting of the property of gram panchayat for setting up a hospital, dispensary, educational or charitable institution. Krishi Vigyan Kendra - ancilliary of the Haryana Agriculture University, Hissar - is admittedly an educational institution and so a gift could be made to such like institution. Setting up of such a unit is likely to prove beneficial to the inhabitants of the village as Krishi Vigyan Kendra has undertaken that they would admit at least one candidate in their veterinary hospital and College from this village every year as well as employ its residents in the Kendra/University. The other concessions in the form of free needs etc. have also been stated. Thus the land which was lying banjar will now be put to some better use and so would

generate employment in the area. This gifting of land though measures 57 acres, yet leaves considerable portion of Shamlat deh land to be used for common purposes of the village. So while gifting away this land, the Gram Panchayat also kept in view the interest of its inhabitants. Such an action is neither violative of the Act/Rules nor can be said to be contrary to the interest of the inhabitants of the village in the given circumstances. Almost identical pleas were raised in case reported as *Isham Singh Vs. State of Haryana etc.,* . The Court found no substance in any of the contentions raised and upheld the gift made by the Gram Panchayat being in terms of Rule 13 of the Rules. Thus finding no merit in this writ petition, the same is dismissed.