
(1972) 07 SHI CK 0003
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 16 of 1971

Surat Ram and Another

APPELLANT

Vs

The State and Others

RESPONDENT

Date of Decision : 04-07-1972

Acts Referred:

Constitution of India, 1950 — Article 226

Punjab Gram Panchayat Act, 1952 — Section 100(2), 97, 97(1), 97(2)

Citation : (1972) 1 ILR HP 395

Hon'ble Judges : R.S. Pathak, C.J

Bench : Single Bench

Advocate : B.D. Sharma, for the Appellant; A.S. Bhatnagar, for the Respondents 1 and 2 and Chhabil Das, for the Respondent 3 to 6, for the Respondent

Judgement

R.S. Pathak, C.J.—The first Petitioner Surat Ram is a member of the Gram Panchayat, Bhetair, Tehsil Una, District Kangra. The second Petitioner, Dev Raj, resides in the village Behran falling within the jurisdiction of that Gram Panchayat. A number of residents of the village, including the second Petitioner, complained of obstruction to the grazing of their cattle on the land included in khasra Nos. 14 and 15 and applied to the Gram Panchayat that a declaration should be obtained from the Civil Court that the land was "shamlat". The application was considered by the Gram Panchayat in a meeting on June 22, 1966, and it authorised the first Petitioner to file a suit in Court on its behalf for the requisite relief. It appears that a suit was actually filed. But while it was pending the Gram Panchayat passed another resolution dated October 8, 1966 revoking the authority given to the first Petitioner for filing the suit and resolving that steps be taken for withdrawing the suit. It appears that the second Petitioner then applied to the Sub-Divisional Officer, purporting to do so u/s 97 of the Punjab Gram Panchayat Act, 1952. The Sub-Divisional Officer, by his order dated July 17, 1967 suspended the execution of the resolution dated October 8, 1966. u/s 97(2) of the Act, the Sub-Divisional Officer then sent the order to the Director, and the Director by his order dated March 4, 1970 rescinded that order.

The first Petitioner then moved the Government u/s 100 (2) of the Act against the order of the Director. That proceeding is pending. During the pendency of the proceeding; the State Government first made an interim order suspending the operation of the order of the Director, but thereafter on January 18, 1971 the interim order was vacated.

2. The Petitioners apply under Article 226 of the Constitution for relief against the order dated" March 4, 1970 of the Director and the order dated January 18, 1971 of the State Government.

3. At the very outset the question for consideration is whether the Petitioners are entitled to maintain this petition. Can they be said to be parties aggrieved by the impugned order.

4. A person can be said to be aggrieved by an order if his rights are affected thereby or because he is a person on whom otherwise the law has conferred an interest in the proceedings giving rise to that order.

5. It is clear that no vested right of either Petitioner is involved. The Gram Panchayat had earlier decided upon filing the suit and had authorised the first Petitioner in that behalf. It was within its powers subsequently to revoke that decision. The first Petitioner, it is true, was thereby deprived of the authority to pursue the suit filed in the Civil Court. But when he filed the suit, he did so as an agent of the Gram Panchayat and not in recognition of any right inhering in him. He could not insist on continuing as an agent of the Gram Panchayat. The agency could be revoked at any time. It is said that the first Petitioner incurred some expenditure in filing the suit. That, it seems to me, does not entitle him to challenge the resolution, revoking the authorisation conferred upon him. Merely because he had incurred some expenditure does not entitle him to insist on the Gram Panchayat continuing with the suit. As regards the second Petitioner, it is said that he is a villager residing in the locality and interested in the land included in khasras Nos. 14 and 15 because his cattle graze on that land. In my, opinion, that does, not vest in him a right to decided whether the suit filed by the Gram Panchayat should be continued or not If the Gram Panchayat, acting within its powers, decided to withdraw the suit, it is not open to a Villager in the locality to challenge the wisdom of that decision in a Court of law. To my mind, neither Petitioner can legitimately claim that the resolution dated October 8, 1966 of the Gram Panchayat affects his vested rights. That being so, it cannot be said that when the Sub-Divisional Officer; and thereafter the Director, made an order in respect of that resolution u/s 97 of the Punjab Gram Panchayat Act, 1952, the Petitioners were entitled to participate in the proceedings. For the same reason the Petitioners were not entitled to carry the matter to the State Government and invoke its jurisdiction u/s 100(2).

6. There is also nothing to suggest that the Act has otherwise, vested, the Petitioners with an interest in the proceedings u/s 97 or u/s 100(2) Section 97 of the Act provides:

Power to suspend the action of Gram Panchayats.--(1) The Deputy Commissioner (or the Sub-Divisional Officer, as the case may be), may by written order suspend the execution of any resolution or order of the Gram Panchayat other than an order passed in judicial proceedings or prohibit the doing of any act which is about to be done or is being done under cover of this Act:

(2) The Deputy Commissioner (or the Sub-Divisional Officer, as the case may be), shall forthwith send to the Director a copy of the order with a statement of his reason for making it, and with such explanation as the Gram Panchayat may offer, and the Director may thereupon confirm, modify or rescind the order.

Section 100 (2) of the Act reads:

Government may, at any time, call for and examine the record of any executive order made under this Act for the purposes of satisfying itself as to the legality and propriety of such order and may confirm, modify or rescind such order.

It will be apparent from Section 97(1) that no right has been conferred upon an individual to invoke the jurisdiction of the Sub-Divisional Officer. The application made by the second Petitioner to the Sub-Divisional Officer must be considered as information merely, and when the Sub-Divisional Officer acted upon that information it was because he chose to do so and not because there was any right in the Petitioner to require him to do so. As a person who merely conveyed information to the Sub-Divisional Officer, the Petitioner did not thereby become a party to the proceedings which followed. Indeed, if there could be any party at all, it would be the Gram Panchayat whose resolution is in question. Section 97(2) contemplates that an explanation may be submitted by the Gram Panchayat. The Sub-Divisional Officer, acting u/s 97(2), forwards a copy of his order along with the explanation of the Gram Panchayat to the Director for confirmation, modification or rescission. Nor does Section 100(2) vest in the Petitioners any interest in the proceedings should the State Government decide to exercise its jurisdiction under that provision in respect of an order made by the Director u/s 97(2).

7. If, therefore, the Petitioners cannot be considered as the bearers of any interest in the proceedings before the Sub-Divisional Officer, the Director and the State Government and if the impugned orders cannot be said to involve any vested right belonging to them, it is not possible to hold that they are entitled to maintain the present writ petition.

8. In my judgment, the Petitioners have no locus standi to maintain this petition. It is, accordingly, rejected. But, in the circumstances, there is no order as to costs.