
(2014) 09 P&H CK 0170
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 628 of 2014

Surender Singh

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 16-09-2014

Acts Referred:

Haryana Panchayati Raj Act, 1994 — Section 49

Citation : (2015) 177 PLR 747 : (2015) 2 RCR(Civil) 561

Hon'ble Judges : Rajan Gupta, J

Bench : Single Bench

Advocate : V.K. Sheoran, Advocates for the Appellant; Saurabh Mohunta, D.A.G, Advocates for the Respondent

Judgement

Rajan Gupta, J.—Petitioner has prayed for a writ in the nature of certiorari for quashing letter/order dated 6.12.2013 (Annexure P/1) passed by Deputy Commissioner, Sonipat and order dated 12.12.2013 (Annexure P/2) passed by Block Development & Panchayat Officer, Gannaur. Orders have been assailed on the ground that petitioner being elected representative of inhabitants of the village is entitled to carry out the development works in the village. Orders, Annexures P/1 & P/2 are unsustainable being violative of Haryana Panchayati Raj Act, 1994.

2. After notice of motion was issued, State filed reply stating that petitioner had failed to carry out the development works in the village and utilise the grants. Block Development & Panchayat Officer was thus, authorised to carry out the necessary works. On 29.4.2014, this court had raised a query about the development work carried out in the village by the government official pursuant to orders (Annexures P/1 & P/2). Today, a status report has been filed by the State by way of" affidavit of Ramphal Singh, Block Development & Panchayat Officer pointing out various development works carried out in the village. Affidavit is taken on record.

3. After hearing learned counsel for the parties and due consideration of the

merits, I am of the considered view that no interference in the writ jurisdiction is called for. According to stand of the State, petitioner did not carry out any development work in the village for which amount of Rs. 1,38,40,000/- had been received from the Government. This grant remained unutilised by the petitioner. As a result, orders (Annexures P/1 & P/2) were passed authorising BDPO to carry out necessary development works in the village. A perusal of status report filed today by way of affidavit of BDPO shows that number of development works have been carried out in the village by the BDPO. According to instructions Annexure R/3 annexed with the reply, time limit has been fixed for starting the development work. Para 7 of the instructions reads as follows:-

"Time limit for starting works-The Gram Sachiv shall ensure passing of resolution for start of work within 15 days of receipt of funds in the account of GP. After preparation of estimates within 10 days of passing of the resolution, the GP shall issue administrative approval within further next 10 days and thereafter, start the work in next 10 days. Thus, within 45 days of the receipt of funds, the Gram Panchayat shall start the work. In case the GP fails to start the work within this time limit, the BDPO concerned shall get the work executed at his/her level upto the amount of Rs. 10 lac. The DDPO on receipt of such a request from BDPO put up the proposal within 3 days to the DC for approval also in these approve the same within 7 working days/The account shall be operated by BDPO & GS jointly with the prior approval of DC through the DDPO. In case the amount involved exceeds Rs. 10 lac, the BDPO shall deposit the funds with the XEN for execution of work."

It is evident that State has acted pursuant to aforesaid instructions. Petitioner has been Sarpanch of the village for the last 4 years. There is nothing on record to show that he has carried out any development work in the village. In case of default of duties by the Gram Panchayat, Section 49 of the Act can be invoked to appoint any other person to carry out the development work in the village. This court can not accept the argument that even if an elected representative fails to perform his duties, State would have no power to authorise a government official to carry out the task of development in a village Besides, counsel for the petitioner has not been able to explain why petitioner has preferred this writ petition in personal capacity without any resolution being passed by the Gram Panchayat. Under the circumstances, there is no ground to interfere in writ jurisdiction.

Dismissed.