

(2016) 08 P&H CK 0333

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 15971 of 2016 and other connected matters.

Surjit Kaur - Petitioner @HASH State of Punjab and Others

Date of Decision : 16-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Punjab Panchayati Raj Act, 1994 — Section 201

Citation : (2017) 1 RCRCivil 300

Hon'ble Judges : Rameshwar Singh Malik, J.

Bench : Single Bench

Advocate : A.S. Manaise, V.K. Sandhir, Jagjit Singh, M.S. Kang and B.S. Baath, Advocates, for the Petitioner; J.S. Puri, Addl. A.G., Punjab, for the Respondent; Sumit Jain, Advocate, for the Respondent No. 4 in CWP No. 10943 of 2016; Vijay Kumar Chaudhary, Advocate,

Final Decision : Disposed Off

Judgement

Rameshwar Singh Malik, J. (Oral)—Following five identical writ petitions bearing No. 9987, 10459, 10943, 14399 and 15971 of 2016, are being disposed of vide this common order, as the issue involved in all these writ petitions is exactly the same. However, for the facility of reference, facts are being culled out from CWP No. 15971 of 2016 (Surjit Kaur v. State of Punjab and others).

2. Feeling aggrieved against the impugned order, appointing Administrator for the Gram Panchayats, petitioners have approached this Court by way of instant writ petitions.

3. Learned counsel for the State has brought to the notice of this Court a judgment dated 30.09.2015 passed by this Court in "Binder Kaur v. State of Punjab and others", 2016 (1) R.C.R. (Civil) 634, to contend that since all these petitioners have got an equally efficacious alternative remedy of revision before the Director, Department of Rural Development and Panchayats, Punjab, by way of revision petition under Section 201 of the Punjab Panchayati Raj Act, 1994 ('the Act' for short), they are liable to be relegated to their alternative remedy of revision. However, at this stage, it is clarified by learned counsel for the State

that now the powers under Section 201 of the Act, vest with the Secretary to Government of Punjab, Department of Rural Development and Panchayats.

4. Before proceeding further, it would be appropriate to refer to the order dated 30.09.2015 passed by this Court in Binder Kaur's case supra and the same reads as under :-

"1 The petitioner is aggrieved against the order dated 23.07.2015 (Annexure P-17) passed by respondent No.3- District Development and Panchayat Officer, Fazilka vide which he has appointed, an Administrator for the Gram Panchayat Chak rohi Wala, Block Jalalabad, in terms of Section 200(1) of the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as "the Act").

2. The argument raised by the learned counsel for the petitioner is that before appointment of an Administrator under Section 200(1) of the Act, the District Development & Panchayat Officer (for short "DD&PO") is to first pass an order in writing, fixing the period, for the performance of the duty and if the said duty is not performed within the period so fixed by him, then he can appoint any other person to perform the duty. He submitted that, in the present case, no such order has been passed by the DDPO and straightway the Administrator has been appointed in violation of Section 200 (1) of the Act.

3. On the other hand, learned counsel for the respondents has submitted that the present petition is not maintainable as the petitioner has not availed the statutory remedy of revision under Section 201 of the Act, which is to be decided by the Director, Department of Rural Development and Panchayat, Punjab. In this regard, he has also placed on record the standing order dated 3.12.2014 passed by the Financial Commissioner and Secretary to Government of Punjab, Department of Rural Development and Panchayats, delegating the powers to the Director, Rural Development and Panchayat, Punjab for entertaining the revision petition under Section 201 of the Act.

4. Learned counsel for the petitioner has relied upon a Division Bench judgment of this Court in Harbant Singh v. State of Punjab and others, 1996(1) RRR, 496, wherein it has been held that an Administrator can not be straightway appointed by the District Development and Panchayat Officer without fixing the time and if the Panchayat failed to perform the duties, then the Administrator can be appointed by the District Development and Panchayat Officer. There is no dispute in regard to the proposition of law propounded by the learned counsel for the petitioner but the issue involved in the present case is as to whether the petitioner has a remedy to challenge the impugned order passed by the DDPO before the Director, Rural Development and Panchayat, Punjab.

5. Having heard learned counsel for the parties and gone through the material available on record, Section 201 of the Act gives power to the Director, Rural Development and Panchayat, Punjab to entertain revision petition against the order of the DD&PO passed under Section 200(1) of the Act.

6. Thus, the present petition is not maintainable and hence the same is hereby dismissed. However, the petitioner is granted liberty to challenge the impugned order before the Director, Rural Development and Panchayat, Punjab by way of a revision petition under Section 201 of the Act. It is further directed that in case such a revision is filed within seven days from the date of receipt of certified copy of this order, the Director, Rural Development and Panchayat, Punjab shall decide the same within one month thereafter. The petitioner may take other pleas also in the said petition, which shall be decided by the Director, Rural Development and Panchayat, Punjab."

5. When confronted with the above-said order, learned counsel for the petitioners sought to argue that the alternative remedy of revision petition under Section 201 of the Act would not be available to them. However, after hearing the learned counsel for the parties at some length, contentions raised on behalf of the petitioners have not been found worth acceptance. It is so said because once the legislature has provided a specific statutory remedy under Section 201 of the Act, which has already been interpreted by this Court to mean that alternative remedy of such a revision petition would be available, petitioners in all these writ petitions are liable to be relegated to their alternative remedy of revision.

No other argument was raised.

6. Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the petitioners have got an equally efficacious alternative remedy of revision petition under Section 201 of the Act, before the Secretary to Government of Punjab, Department of Rural Development and Panchayats, all these petitioners are liable to be relegated to their alternative remedy.

7. Without commenting any thing further on the merits of the case, lest it should prejudice the rights of either of the parties, all these writ petitions are disposed of, relegating the petitioners to their alternative remedy of revision petition under Section 201 of the Act, before the Secretary to Government of Punjab, Department of Rural Development and Panchayats.

8. As directed by this Court in *Binder Kaur's* case (supra), similar directions are being issued to the effect that if the petitioners file their revision petition within a period of seven days from the date of receipt of a certified copy of this order, the competent authority, i.e. Secretary to Government of Punjab, Department of Rural Development and Panchayats, shall decide the same at an early date and in any case within a period of one month. Petitioners shall be at liberty to raise all possible pleas available to them, in their revision petition, which shall be decided by the Secretary to Government of Punjab, Department of Rural Development and Panchayats, by passing a speaking order, strictly in accordance with law.

9. With the above-said observations made and directions issued, all these writ petitions stand disposed of, however, with no order as to costs.