

**(1983) 05 P&H CK 0104**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : C.W.P. No. 5056 of 1974**

Umrao Singh

APPELLANT

Vs

The State of Haryana and others

RESPONDENT

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**Date of Decision :** 06-05-1983

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227

**Citation :** (1983) 05 P&H CK 0104

**Hon'ble Judges :** Sukhdev Singh Kang, J

**Bench :** Single Bench

**Advocate :** Ram Sarup, for the Appellant;

**Final Decision :** Allowed

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## Judgement

Sukhdev Singh Kang, J.—Umrao Singh has filed this petition under Articles 226 & 227 of the Constitution of India, for the issuance of writ of Certiorari quashing orders dated 23rd May 1973, (P-3) and 17th December, 1973 (P-4) passed by the Block Development and Panchayat Officer, Khol at Rewari, and order dated 11th September 1974, passed by the Assistant Collector 1st Grade.

2. Briefly stated the facts of the case are that Umrao Singh petitioner had been elected as a Sarpanch of Gram Panchayat of village Pithra was in the Year 1964. On the expiry of his term he relinquished charge of this office in December 1971.

3. The petitioner received a show-cause notice u/s 105(2) of the Punjab Gram Panchayat Act, 1952 (for short the Act). From the Block Development & Panchayat Officer Khol at Rewari (respondent No. 2). The petitioner submitted his reply to this show-cause notice on 3rd March, 1973, controverting, the allegation made in the show-cause notice. Respondent No. 2 did not examine any evidence in the presence of the petitioner. He did not even confront the Petitioner with any material collected against him, Relying upon an exparte report received from the Overseer of the Khol Block, he held that the petitioner had caused loss to the Gram Panchayat to the tune of Rs. 3565/-. The petitioner were served

with a fresh show-cause notice by respondent No. 2 which contained the same very items as had been included in the previous notice. It was alleged that the petitioner had caused a loss of Rs. 10,515/-. The petitioner sent representation against this notice to the Director of Panchayat. He specifically prayed that the enquiry in the matter should be conducted by some other officer. Thereafter, the petitioner did not hear anything. He was not associated with any enquiry. No material adverse to the petitioner had been brought to his notice by respondent No. 2. In fact, the petitioner was never called by respondent No. 2 nor he was asked to appear on any particular date. Assessment proceedings were taken by the Block Development & Panchayat Officer, who determined the loss alleged to have been caused by him. The petitioner received an order from respondent No. 2, exercising powers of the Assistant Collector 1st Grade, requiring the petitioner to appear before him on 21st September, 1974, along with the sum due against him as a defaulter. Aggrieved by these orders and the proceedings, the petitioner has filed the present writ petition.

4. Nobody has come forward to contest the petition. In this situation, the allegations made in the writ petition have to be true. From the orders dated 23.5.1973 (Annexure P-3) & dated 17.12.1973 (Annexure P. 4) it is apparent that the petitioner was not associated with the enquiry conducted by the Overseer of the Block. The whole basis of the assessment is the report submitted by the Overseer of the Block. The petitioner was not associated by him while determining the loss of each item. This material collected at the back of the petitioner could not be made the basis for assessing the alleged loss. In a similar circumstance in *Raghubir Singh and another v. The State of Haryana* and another 1972 P.L.J. 649. It was held :

Where it was contended that the assessment of the loss by the District Panchayat Officer is arbitrary and whimsical and does not proceed on any rational basis, the rates mentioned in the show-cause notice for the purpose of determining the petitioner's liability, is only a hypothetical assessment. If this rate was to be finally adopted for determining the petitioner's liability, they should have been associated in the enquiry leading to the acceptance of these basic rates. The petitioner should also been apprised of the material on which these rates had been fixed, the petitioners could have pointed out that the material on which these rates have been based was defective. The petitioner should also have been given an opportunity to lead evidence in rebuttal.

As the basic rates do not appear in the enquiry, and no reasons have been given in the impugned orders of the District Panchayat Officer as to how the present quality of the land or the prevailing rates were taken into account for determining the petitioners' liability and he has failed to give, not only in the impugned orders-but also in the show-cause notices, the barest outlines of his process of reasoning, the orders being non-speaking are bad.

The ratio of the above-mentioned case fully applies to the facts of the present case.

5. This writ petition is allowed and order dated 23rd May, 1973 (Annexure P-3) 17th December, 1973 (Annexure P-4) and 11th September, 1974 (Annexure P-7) are set aside. Since there has been no opposition, there shall be no order as to costs.