

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.11601 of 2015
Date of Order: 09.07.2015

Om Parkash and others

..Petitioners

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Sanjay Verma, Advocate,
for the petitioners.

Mr. D.Khanna, Addl.A.G.,Haryana
for respondents no.1 to 3.

Mr. Arvind Singh, Advocate,
for respondent no.4-Gram Panchayat, Kalawar.

Mr. Fateh Saini, Advocate,
for respondent no.5-Gram Panchayat, Balapur.

RAJIVE BHALLA, J (Oral)

Replies filed on behalf of respondents no.4 and 5, in Court today, are taken on record.

The petitioners, pray for issuance of a writ in the nature of certiorari quashing resolutions dated 19.04.2011 (Annexure P-5), 13.08.2014 (Annexure P-6), passed by Gram Panchayat, Kalawar, orders dated 21.08.2014 (Annexure P-9) and 28.08.2014 (Annexure P-10), passed by Block Development and Panchayat Officer, Ambala-I and the Deputy Commissioner, Ambala, respectively, whereby the Deputy Commissioner, Ambala and the Block Development & Panchayat Officer, have allotted 100 square yard plots under the Mahatma Gandhi Gramin Basti Yojna from Khasra No.14, 17/2, 24 of Rectangle No.51 from land,

which was reserved as “Gau Charand”.

Counsel for the petitioners states that he does not press his plea on the ground that the land was reserved for “Gau Charand”, but asserts that as the Gram Panchayat, Kalawar has been bifurcated into Gram Panchayat, Kalawar and Balapur, the Deputy Commissioner, Ambala, may be directed to apportion the assets of the Gram Panchayat in strict compliance with Rule 31-A of the Haryana Panchayati Raj Rules, 1995 (hereinafter referred to as 'the Rules'), notified by the State of Haryana, on 04.06.2014.

Counsel for the Gram Panchayat, Balapur, submits that in the absence of any apportionment of assets, the Gram Panchayat is unable to function as the immovable property is being managed and controlled by Gram Panchayat, Kalawar.

Counsel for the Gram Panchayat, Kalawar, submits that both Gram Panchayats have by agreement demarcated plots of land for allotment of 100 square yard plots and, therefore, the writ petition is merely an attempt by the petitioners and Gram Panchayat Balapur to stall the allotment of 100 square yard plots.

We have heard counsel for the parties and perused the paper book.

The foundation of the present dispute is the failure of the State, acting through the Deputy Commissioner, Ambala, to apportion assets originally belonging to Gram Panchayat Kalawar between the newly created Gram Panchayats Balapur and Kalawar. The State of Haryana has enacted Rule 31-A to the Rules to provide a procedure for apportionment of assets and liabilities between the original and a newly created Gram Panchayat. Rule 31-A of the Rules, as notified by the State of Haryana, on 04.06.2014, reads as follows:-

“31A Apportionment of assets and liabilities. Section 7.

(1) for the purpose of sub-section (3A) of section 7, the assets and liabilities shall be apportioned by the concerned Deputy Commissioner as under:-

- (i) all immovable properties situated within the revenue estate or sabha area of a particular Gram Panchayat, shall vest in that particular Gram Panchayat;
- (ii) other movable and immovable properties, not within the revenue estate or sabha area of a particular Gram Panchayat including funds shall be apportioned between the existing and the newly constituted Gram Panchayat in proportionate to their population;
- (iii) the assets and liabilities, not dealt under clauses (i) and (ii) above, shall be apportioned in the manner agreed upon and in case there is no such agreement within a period of one year from the date of bifurcation of sabha areas, the Deputy Commissioner shall be competent to determine such assets and liabilities, as he may deem fit;

(2) The Gram Panchayat, aggrieved by an order of the Deputy Commissioner, may within a period of thirty days from the date of order, prefer an appeal to the Divisional Commissioner, whose decision thereon shall be final.”

Unfortunately, the apportionment of assets between the two

Gram Panchayats has not been finalised by the Deputy Commissioner,

Ambala, leading to repeated applications, representations and even writ petitions, by residents of the Gram Panchayats.

Without expressing any opinion as to the merits of the contentions, the writ petition is disposed of by directing the Deputy Commissioner, Ambala, to apportion assets between Gram Panchayats Kalawar and Balapur, after after affording an opportunity of hearing to both Gram Panchayats, within a period of two months from the date of receipt of a certified copy of this order.

(RAJIVE BHALLA)
JUDGE

July 09, 2015
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(AMOL RATTAN SINGH)
JUDGE