

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 205

Civil Writ Petition No.21235 of 2014 (O & M)

Date of Decision: *August 13, 2015*

Gram Panchayat, Balongi

..... PETITIONER(S)

VERSUS

State of Punjab & others

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE SURYA KANT**
 HON'BLE MR. JUSTICE JASPAL SINGH

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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PRESENT: - Mr. S.S. Toor, Advocate, for the petitioner.

 Mr. Rajesh Bhardwaj, Additional Advocate General, Punjab.

 Mr. H.S. Brar, Advocate, for respondent No.4.

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Surya Kant, J (Oral)

1. The Gram Panchayat, Balongi, Tehsil & District SAS Nagar (Mohali), has assailed the order dated 23.9.2014 passed by the Deputy Director, Rural Development & Panchayat, Patiala, in respect of apportionment of movable and immovable assets between the petitioner – Gram Panchayat and respondent No.4 – Gram Panchayat of Balongi Colony.

2. The affidavit filed by Director, Rural Development & Panchayats Department, Punjab, reveals that the Gram Panchayat, Balongi, was bifurcated vide Government Notification dated 18.5.1998 (R-3) and a new Gram Panchayat of Balongi Colony, was established vide the same notification. The decision of bifurcating the existing Gram Panchayat was taken in exercise of powers under Section 3(1) of the Punjab Panchayati Raj Act, 1994 (for short, 'Act'). Sections 3(1) and (3), *inter-alia*, provide that in the event of creation/constitution of a new Gram Sabha, the area, assets and liability of the Gram Panchayats or Gram Sabha area from which such area is excluded, shall be "apportioned between successor Gram Panchayats in the manner specified hereinafter". Clause (ii) of Sub-Section (3) of Section 3 provides the manner of apportionment.

3. The impugned order has been passed by the Deputy Director, Rural Development & Panchayats, Patiala, in exercise of the power under the above stated provision. Resultantly, the assets of petitioner – Gram Panchayat have been apportioned between it and respondent No.4.

4. The petitioner – Gram Panchayat has multiple grievances against the above stated order. Since those grievances can be effectively redressed after summoning the record and on obtaining a fact finding report etc., we are satisfied that it is a fit case where the State Government should invoke its powers under Section 201 read with Section 204 of the Act and consider the legality of impugned order dated 23.9.2014.

5. We, thus, relegate the matter to the Principal Secretary or any other officer not below the rank of Special Secretary in the Department of Rural Development & Panchayats, Punjab, to entertain an appeal that may be

filed by the petitioner – Gram Panchayat against order dated 23.9.2014 and decide the same in accordance with law after summoning relevant records and on consideration of the contentions that may be raised by both the Gram Panchayats.

6. The petitioner – Gram Panchayat may file an appeal within one month. It shall be appreciated if such appeal is decided by a reasoned order within four months of its filing.

7. Till the above mentioned appeal is decided by the Appellate Authority, both the Gram Panchayats shall maintain status-quo re: alienation of their respective immovable properties. However, the land resolved to be handed over to State Government for setting up the Industrial Training Institute shall be counted in the share of respondent No.4 – Gram Panchayat. If the State Government holds that respondent No.4 is not entitled to any share in *shamlat deh*, in that event, petitioner – Gram Panchayat's claim for compensation for the land being utilized for setting up Industrial Training Institute by the State Government shall be decided in accordance with law.

8. Disposed of accordingly.

(Surya Kant)
Judge

(Jaspal Singh)
Judge

August 13, 2015
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