

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

Civil Writ Petition No. 23842 of 2014

Date of Decision: 27.07.2015

Kashmir Kaur, Ex-Sarpanch

..... Petitioner

Vs.

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. N.P.S.Mann, Advocate for the petitioner.

Mr. Suresh Singla, Addl. A.G., Punjab
for the respondents.

JASWANT SINGH, J. (Oral)

The petitioner, Ex-Sarpanch has laid challenge to the order dated 16.07.2014 (**Annexure P-1**), passed by the Director, Department of Rural Development and Panchayats, Punjab (respondent No.2) and consequent letter/memo dated 08.09.2014 (**Annexure P-2**), passed by the Block Development and Panchayat Officer, Ajnala (respondent No.4), whereby a demand for a sum of ₹ 5,15,515/- has been made against the petitioner under Section 216 of the Punjab Panchayati Raj Act, 1994 (for short '1994 Act')

It is averred that the petitioner had remained a duly elected Sarpanch of the Gram Panchayat, Jafarkot, Tehsil Ajnala, District Amritsar from 2003 till June, 2008. Thereafter, on a complaint and consequent investigation, it was allegedly found that the petitioner during her tenure as Sarpanch had misappropriated a sum of ₹ 5,15,515/- due to less work in the development contrary to as claimed. Based

on such investigation and report, the Director / respondent No.2, vide order dated 16.07.2014 (P-1) has directed the BDPO (respondent No.4) to make the recoveries from the petitioner under Section 216 of the 1994 Act. Consequently, letter/memo dated 08.09.2014 (P-2) requesting the petitioner to deposit the aforesaid amount of recovery within one week.

Learned Counsel for the petitioner submits that in the light of provisions of sub section 4 of Section 216 of the 1994 Act, the demand in the year 2014 is beyond the period of limitation prescribed for recovering such a loss as enumerated therein.

Learned State Counsel has argued that the petitioner is liable to make good any loss caused to the Gram Panchayat.

Learned Counsel for the parties have been heard at length.

The relevant provision of sub section 4 of Section 216 of the 1994 Act reads as under:-

“ (4) Notwithstanding anything contained in this section no person shall be called upon to explain why he should not be required to make good any loss, after the expiry of four years from the occurrence of the loss, waste or misapplication or after the expiry of two years from his ceasing to be a member, whichever is later. ”

It is apparent that the statute provides a safeguard against any recovery from an Ex-Sarpanch beyond the period of four years from the occurrence of the loss or misappropriation or after two years from his ceasing to be a member/Sarpanch, whichever is later.

In the present case, the learned State Counsel is unable to contest that the demand has been made in the year 2014, which is beyond two years of the petitioner “ceasing to be a Sarpanch” or “four years after the alleged

misappropriation” and, therefore, the demand is hit by the limitation provided in the Act.

Accordingly, in view of the above, the present writ petition is allowed and order dated 16.07.2014 (**P-1**) and letter/memo dated 08.09.2014 (**P-2**) are hereby quashed.

Allowed with costs of ₹ 5,000/-.

July 27, 2015

Gagan

(JASWANT SINGH)
JUDGE