

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP No.15776 of 2011

Date of Decision : March 02, 2017

PRITAM SINGH AND OTHERS

....Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

....Respondents

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Mahavir Sandhu, Advocate for the petitioners.  
Mr. Gaurav Jindal, Addl. A.G., Haryana.  
Mr. Satish Chaudhary, Advocate for respondent No.4.

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M.M.S. BEDI, J (ORAL)

The petitioners are residents of Village Kurali, Tehsil Bilaspur, District Yamunanagar. They have filed the present writ petition seeking a writ of certiorari for quashing the policy dated 01.02.2008 (Annexure P4) providing a scheme for allotment of 100 sq. yards residential plots to the families of Scheduled Caste and families living below the poverty line from the available shamlat land and where there was no suitable shamlat land available, land will be made available as per requirement by way of transfer from private land or by acquisition. The petitioner also challenged the resolution No.1 dated 05.03.2008 (Annexure P-5) passed by the Gram Panchayat to the extent that the Panchayat has carved out 100 sq. yards residential plots for the families

of the Scheduled Caste category, Backward Class category and the persons belonging to the families of weaker sections of the society out of the land comprised in khasra Nos.22//6/1/3, 23//8/2/4, 8/2/5, 9/1/13, 10/2/5/8, 10/2/6, 11/1, 12 & 13/1 total measuring 24 kanals 2 Marlas as per jamabandis for the years 1987-88 and 2007-08 (Annexures P-2 & P-3).

It is claimed fact that the above said land was reserved for common purposes of *Khalihan* (crop thrashing ground) under the Consolidation Scheme dated 11.04.1954 (Annexure P-1) during consolidation of holdings which had taken place in the village in the year 1954 after applying a pro rata cut to the land holdings of the petitioners and other members of proprietary body of the village and the same could not be utilized for the purpose of allotment of residential plots by frustrating the purpose for which it was so reserved under the consolidation scheme. The said policy came up for consideration for adjudication in '*Rajbir Singh versus State of Haryana*', 2010(1) 157 P.L.R. 281 and was upheld and it was also upheld in '*Gurmukh Singh and another versus State of Haryana and others*', 2010(1) R.C.R. (Civil) 800. In substance, the validity of the policy had been upheld by Division Bench in *Gurmukh Singh's case (supra)*.

Counsel for the respondents has countered the aforesaid arguments contending that even if the policy (Annexure P-4) dated 01.02.2008 is held to be valid even then the land which was reserved as “*Khalihan*” and “*Besak Maveshian*” i.e. land for crop thrashing and

resting place for the cattle can still be utilized for common purposes. So far as the common purposes land is concerned, the land is defined under Section 2 (g) (4) of the Punjab Village Common Lands (Regulation) Act, 1961 which includes the land used or reserved for the benefit of the village community including streets, lanes, play grounds, schools, drinking ponds, wells or ponds within abadi deh or gora deh. The categories mentioned in 2 (g) (4) of the aforesaid Act is not be exhaustive list but as per the definition of common purposes land of the village as per Punjab Village Lands (Regulations) Rules, 1964, the Panchayat may use the land of shamlat deh vested in it for leasing out for the purpose of abadi or to a family having insufficient housing/accommodation or for the purpose of industrial projects approved by the Government.

In view of above said circumstances, the petitioners cannot claim that the land which has been reserved for the common purposes and is being utilized by the Panchayat in accordance with the Regulations will be exempted from the policy (Annexure P-4).

I do not find any force in the contention of the learned counsel for the petitioners that the land in Rect. No.22, as mentioned herein above, cannot be utilized for the allotment of the plots to the families of the Scheduled Caste and families below the poverty line. Besides this, any controversy regarding the vesting of the land in Gram Panchayat or any land included or excluded from the shamlat deh is to be determined only in a suit under Section 13 A of the Village Common Lands (Regulations) Act, 1961, as applicable to Haryana.

In view of the above circumstances, I do not find any ground to interfere in the writ jurisdiction.

Counsel for the petitioners has also relied upon judgment of Apex Court in '*Jagpal Singh versus State of Punjab*', Civil Appeal No.1132 of 2011 decided on 28.01.2011. A perusal of the said judgment indicates that it is not beneficial to the petitioners in any manner, rather in the said judgment, a direction has been given to the State Governments in the country that they should prepare schemes for eviction of illegal authorized occupants of Gram Sabha/Gram Panchayat/Shamlat land and this must be restored to the Gram Sabha/Gram Panchayat for common use of villagers of the village. The said case had been kept open by the Supreme Court with a direction that long duration of any illegal occupation will not confer any right on the illegal occupants.

In view of the above, the writ petition is dismissed.

**( M.M.S. BEDI )**  
**JUDGE**

**March 02, 2017**

rajneesh

Whether speaking/reasoned : Yes/No  
Whether Reportable : Yes/No