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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15790-2014

Date of decision : 08.05.2017

Kulwant Singh and another

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. G.K. Mann, Advocate
for the petitioners.

Mr. Yatinder Sharma, Addl. A.G., Punjab.

Mr. V.K. Chaudhary, Advocate
for respondent Nos.7 & 8.

AMIT RAWAL, J. (ORAL)

The petitioners have approached this Court with the following relief:-

"Civil Writ Petition under Articles 226/227 of the Constitution of India praying for issuance of a writ in the nature of *certiorari* for quashing/setting aside the impugned order dated 12.08.2013 passed by the respondent No.4 (Annexure P-14), whereby the allegations are not found to be proved against the respondent Nos.7 and 8 being illegal and wrong.

AND

For issuance of an appropriate writ, order or direction to take appropriate action against Sarpanch and Secretary respondent No.5 for his act of misappropriation and embezzlement of several lacs of rupees of government grants and Panchayat Funds to avoid the implication of the provisions of Section 216(4) of the Punjab Panchayati Raj Act, 1994, if at all involved in the present case in the better interest of the

petitioner, Gram Panchayat to recover huge accounts of Panchayat funds misappropriated by Sarpanch and to initiate other proceedings against him under the law; or in the alternative matter be referred to the Director Vigilance Bureau, Punjab, Chandigarh for fair and impartial inquiry.

AND/OR

Any other appropriate Writ, Order or direction which this Hon'ble Court may deem fit, keeping in view the peculiar facts and circumstances mentioned in the present Writ Petition.

AND

With further prayer to exempt the petitioner from filing the certified/true typed copies of the annexures, as the same are not readily available with the petitioner. However, true typed/translated copies of the Annexures are annexed with the present petition."

The pith and substance of the allegations in the present writ petition by challenging the order dated 12.08.2013 (Annexure P-14) passed by respondent No.4, whereby on the complaint of the petitioners, an inquiry had been conducted by the Additional Deputy Commissioner, which found that no departmental action is required to be taken.

Ms. G.K. Mann, learned counsel appearing on behalf of the petitioners submits that at least, the inquiry of the Additional Deputy Commissioner is required to be re-conducted by the Senior Officers as the private respondent(s) had managed the same in their favour. There has been an affidavit of the residents of the Village, much less, allegations with regard to the receipt of the grants for development of the Village, but the private respondent(s), who had been remained Sarpanch for two terms, has not utilized the same, much less, misappropriated.

Mr. V.K. Chaudhary, learned counsel for respondent(s) submits

that the inquiry report dated 12.08.2013 (Annexure P-14) has been approved by the Director, Rural Development and Panchayat Department, vide order dated 08.01.2014 (Annexure R-7/1-T).

I have heard the learned counsel for the parties and appraised the paper book.

This Court called upon Ms. G.K. Mann, to apprise this Court from any documentary evidence to establish *prima facie* that there was a misappropriation as in my view, it would be a disputed question of fact. Had the inquiry report been in favour of the petitioners, perhaps this Court would not definitely interfered.

At this stage, learned counsel for the petitioners submits that she may be granted liberty to file a civil suit provided that the period spent in the present writ petition is condoned in view of the provisions of Section 14 of the Limitation Act.

Keeping in view the aforementioned facts, I deem it appropriate to dispose of the present writ petition with liberty that in case the petitioners file civil suit within a period of one month from the date of the receipt of the certified copy of this order, the period spent in this Court shall deem to be condoned.

Disposed of, accordingly.

08.05.2017

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**