

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 14187 of 2017

Date of decision : August 23, 2017

Charanjit Kaur and others

..... **Petitioners**

Versus

Financial Commissioner State of Punjab through Secretary and others

..... **Respondents**

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Puneet Tuli, Advocate for
Mr. S. K. Monga, Advocate
for the petitioner.

Mr. Krishan M. Vohra, Advocate for
Mr. Sumeet Goel, Advocate
for respondent No.1.

RAKESH KUMAR JAIN, J (oral).

This petition is filed by five Panches and Sarpanch of Gram Panchayat Manawala Kalan, District Amritsar to challenge the order dated 31.5.2016 passed by the Director, Department of Rural Development and Panchayat, Mohali by which they have been suspended from the post of Panches/Sarpanch and the order dated 21.2.2017 passed by the Financial Commissioner, Rural Development and Panchayat by which their appeals have been dismissed.

In brief, Gram Panchayat, Manawala Kalan was carved out of Gram Panchayat Manawala Khurd. However, the land of both the Gram Panchayats was joint. The Gram Panchayat Manawala Kala convened a meeting on 5.7.2014 and passed a resolution for the purpose of exchanging some land of the Gram Panchayat. It is mentioned in the resolution that the party seeking the land of the Panchayat, situated on the

G.T. Road was for the purpose of Ambulance and residence of staff near G.T. Road, Senior Secondary School, Manawala Kalan. They wrote a letter to the SSP., Amritsar stating that most of the area of police station Jandiala is situated near the National Highway and due to the heavy traffic on the G.T.Road, daburji to bridge drain chohan Bus Stand Manawala, Toll plaza, bye pass Tarntaran, turning of Devidas Pura, turning of Dana Mandi and G.T.Road, number of accidents occur on the G.T. Road and no ambulance is available at the time of accident. The private party had prayed that for the purpose of providing ambulance and residences for the staff members, 2/3 Kanals land situated near the Secondary School Manawala Kalan is required. Thus, the resolution was passed to grant land for the purpose of parking of ambulance and residence for their staff near the Secondary School Manawala Kalan in the public interest so that ambulance and their staff may be available at the time of any accident on the road to save valuable lives. The said resolution was however, not approved by the Government but in the meantime a complaint was made by the Sarpanch, Manawala Khurd alleging that the Gram Panchayat Manawala Kalan could not have exchanged the land through a resolution as the land is still joint and has not been partitioned so far. On the said complaint, an enquiry was ordered which was conducted by the Divisional Deputy Director, Village Development and Panchayat, Jalandhar who has though observed that members of the Panchayat have not taken any illegal gratification in this transaction of exchange of land but still the resolution has been illegally passed as the land has not been partitioned.

Since no action was being taken on the basis of the enquiry report, a Civil Writ Petition No. 220 of 2015 was filed by Gram

Panchayat, Manawala Khurd seeking a direction to decide atleast their representation for taking action against the Panchayat of Manawala Kalan. The said writ petition was disposed of by this Court and thereafter the order dated 31.5.2016 was passed by the Director, Department of Rural Development and Panchayat and all the Panches and Sarpanch were put under suspension. The said order was unsuccessfully challenged by the petitioners in appeal.

Ms. Deepali Puri, learned Addl. A. G. Punjab, on instructions, has submitted that the petitioners were not removed from the post of Panches and Sarpanch rather they have been put under suspension and a regular enquiry has been ordered. She has also submitted that after the suspension of the petitioners, the respondent has appointed an Administrator for the purpose of looking after the affairs of Panchayat. Insofar as, the counsel for respondent No.5 is concerned, he has submitted that he has no objection if the Panchayat is re-instated because the land has not been transferred to the private party.

I have heard learned counsel for the parties and perused the record.

No doubt that the Panchayat was supposed to be vigilant while passing the resolution for transferring its land to another party by way of exchange when it was not partitioned but from the perusal of the resolution it is found that the exchange was effected for a public purpose as the land was required for the parking of ambulance and residence of the staff of the private party on the G. T. Road in order to provide quick assistance to the victims of the road accidents.

It is also not in dispute that the resolution passed by the

Panchayat has not been accepted and therefore, the land has not been exchanged so far. More over, respondent No.5 has also submitted that he has no objection if the complaint made by Gram Panchayat Manawala Khurd is withdrawn.

Thus, keeping in view the aforesaid facts, especially the fact that the entire Panchayat has been put under suspension which is a democratically elected body of the Gram Sabha and is accountable to the voters, I am of the considered opinion that the present petition is meritorious and deserves to succeed, especially when the enquiry officer has also opined that he could not find the members of the Panchayat indulging in any kind of corruption, much less seeking illegal gratification for the purpose of exchanging the land of the Gram Panchayat.

Thus, in view of the aforesaid facts and circumstances, which are peculiar in its nature, the present petition is allowed. Both the orders dated 31.5.2016, putting the petitioners under suspension and order dated 21.2.2017, dismissing their appeal are hereby set aside.

(RAKESH KUMAR JAIN)
JUDGE

August 23, 2017

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Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No