IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.15535 of 2017.
Date of Decision: July 19, 2017

Gram Panchayat, Village Balongi ......Petitioner

versus

State of Punjab and others .....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDHIR MITTAL.

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Present: Mr.Amrik Singh, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

The petitioner-Gram Panchayat seeks quashing of the order dated 23.09.2014 (P-5) as also the order dated 21.02.2017 (P-9) passed by the Financial Commissioner-cum-Principal Secretary, Department of Rural Development and Panchayats, Punjab, which is said to have been communicated to the petitioner on 05.05.2017.

[2] It may be mentioned here that vide the impugned order dated 23.09.2014, the immovable assets of Gram Panchayat, Balongi comprising shamlat/panchayat deh land or the land reserved for 'common purposes' was bifurcated and apportioned between the Gram Panchayat of Balongi and newly carved out Gram Panchayat of Balongi Colony.

[3] The petitioner-Gram Panchayat felt aggrieved by the apportionment of its immovable assets and approached this Court by way of CWP No.21235 of 2014 in which a specific prayer was made to set-aside the order vide which the "shamlat deh hasad rasab zer khewat now vested in Panchayat of village Balongi" was given to the "Gram Panchayat of Balongi

colony comprising of unauthorized colony of migrants, without any hadbast number". The said writ petition was disposed of vide order dated 13.08.2015 directing the Principal Secretary or any other officer not below the rank of Special Secretary in the Department of Rural Development and Panchayats, Punjab, to entertain the appeal filed on behalf of the Gram Panchayat and decide the issue of apportionment of assets by invoking the powers vested in the State Government under Section 201 read with Section 204 of the Punjab Panchayati Raj Act, 1994.

[4] Unfortunately, the Financial Commissioner-cum Principal Secretary, Department of Rural Development and Panchayats, Punjab, has adopted a casual approach and over-looking the above-mentioned directions, has passed the impugned order dated 21.02.2017 remanding the case to the Deputy Commissioner, SAS Nagar, Mohali on the ground that under Rule 40 of the Punjab Panchayati Raj (Gram Panchayat) Rules, 2012, the Deputy Commissioner is the Prescribed Authority for settling the dispute between the Panchayat and other bodies.

[5] The aggrieved Gram Panchayat is again before this Court.

[6] To our utter surprise, the learned counsel for the petitioner-Gram Panchayat is now more aggrieved by the very bifurcation of Gram Panchayat and not against the apportionment of its immovable assets. He claims that the very decision of bifurcating the Gram Panchayat is illegal and contrary to the Punjab Panchayati Raj Act, 1994. In our considered view, the argument is wholly misconceived and misdirected. The petitioner-Gram Panchayat was bifurcated into two Gram Panchayats and a new Gram Panchayat of Balongi Colony was set-up way back in the year 1998 vide notification dated 18.05.1998 which was duly published in the official

gazette. Merely because the Prescribed Authority took more than 16 years in dividing the assets between two Gram Panchayats and passed such order only on 23.09.2014, would not revive the cause of action and petitioner-Gram Panchayat cannot question the very bifurcation of it which took place in the year 1998. Nothing precluded the petitioner-Gram Panchayat to assail the notification of 1998 within a reasonable time. Not only this, no specific relief was sought in the earlier round of litigation in this regard. If at all such a prayer was made, the same shall be deemed to have been given up or rejected. The petitioner-panchayat thus cannot be permitted to question its bifurcation at this belated juncture. Having held so, we revert back to the second issue, namely, legality of the bifurcation of assets between two Gram Panchayats. It is true that the Principal Secretary has not cared to appreciate and comply with the directions issued by this Court on August 13, 2015. Nevertheless, we feel that sending the case to the same Officer, who is reluctant to exercise the powers of State Government, would be an exercise in futility as it would unnecessary prolong the controversy. Consequently, we direct the Deputy Commissioner, SAS Nagar, Mohali to pass an order in purported exercise of his powers under Rule 40 of the Punjab Panchayati Raj (Gram Panchayat) Rules, 2012, after hearing both the Gram Panchayats, within a period of three months from the date of receiving a certified copy of this order. The aggrieved Gram Panchayat will be at liberty to file an appeal before the State Government and if any such appeal is filed, we direct the Principal Secretary-cum-Financial Commissioner, Department of Rural Development and Panchayats, Punjab, to entertain the same under Section 201 read with Section 204 of the Punjab Panchayati Raj Act, 1994 and decide on merits, failing which the matter will be viewed seriously.

The writ petition stands disposed of accordingly.

[SURYA KANT]
JUDGE

July 19, 2017
mohinder

[SUDHIR MITTAL]
JUDGE

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