

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.W.P. No. 20782 of 2016 (O&M)

Date of decision: 27.2.2017

Gram Panchayat Manesar

.. Petitioner

v.

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Arun Jain, Senior Advocate with
Mr. Sunil Sharma, Advocate for the petitioner.

Mr. Harsh Aggarwal, Advocate for the caveator-
respondent No. 3.

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Rajesh Bindal J.

Gram Panchayat, Manesar has filed the present petition challenging the order dated 16.1.2015 (Annexure P-19).

Mr. Arun Jain, learned senior counsel appearing for the petitioner submitted that the Government vide order dated 23.12.1998 (Annexure P-2) permitted the Gram Panchayat to exchange 19 acres of land with Haryana State Industrial and Infrastructure Development Corporation (for short, 'the Corporation'). The aforesaid order was challenged, where the definite stand taken by the Gram Panchayat was that it had consented for exchange, which was for the benefit of the residents of the area. Even the stand taken by the Corporation in the reply in that petition was that they had consented to the exchange. The writ petition was dismissed as infructuous

on 3.12.2008 as the Gram Panchayat had revoked the earlier resolution approving exchange of land. On 16.6.2009, the Gram Panchayat again passed resolution approving exchange of land. Learned counsel referred to the resolution passed on 23.6.2009 of the Panchayats of 22 neighbouring villages endorsing the earlier resolution that a hospital and girls college should be constructed in the area and the Gram Panchayat should exchange the land with the Corporation. Vide order dated 14.12.2009, the Government cancelled its earlier order dated 23.12.1998. The aforesaid order was challenged by the petitioner by filing CWP No. 4731 of 2010, which was decided on 11.2.2014 remitting the matter back to the Government to be decided afresh by a Committee comprising Principal Secretaries of the Departments of Education, Health and Industries. The decision was to be taken within a period of three months. It was in pursuance thereto that the impugned order has been passed on 16.1.2015 cancelling approval for exchange of land earlier granted vide order dated 23.12.1998.

The submission of learned counsel for the petitioner is that the Corporation has now withdrawn its consent after much water had flown. The same should not be taken into consideration. Initially, when the order was passed, it had consented for exchange of land. There was no liberty with it to withdraw the consent for exchange. While referring to Rule 5 of the Punjab Village Common Lands (Regulation) Rules, 1964 (as applicable to the State of Haryana), it was submitted that the Committee had failed to consider the subsequent resolutions passed by the Gram Panchayat, which endorsed the initial resolution regarding exchange of land as it was beneficial for the inhabitants of the village. The impugned order does not

deal with the situation as envisaged in Rule 5 of the Rules. Third party rights were created during the pendency of the litigation, which cannot have any effect. In fact, the revenue entries had also been changed. As the Gram Panchayat had passed the resolution to construct a hospital and girls college on the exchanged land, which was for the benefit of inhabitants of the village, the impugned order be set aside and exchange be approved.

On the other hand, learned counsel for the caveator-respondent No. 3 submitted that after the matter was remitted back by this Court, the Committee comprising of Principal Secretaries of the Departments concerned, Managing Director of the Corporation and Director, Department of Industries and Commerce, was constituted. Sarpanch of Village Panchayat, Manesar was also requested to attend the meeting. The matter was considered threadbare noticing all the facts. After cancellation of exchange, the Corporation had carved out group housing sites on the area, even the allotments have also been made and on two plots, even construction is complete. There is no proposal for construction of hospital or college in the area, as suggested by the Secretaries of the Departments concerned. In fact, the process for exchange started with a political background after foundation stone was laid by the then Chief Minister on the land belonging to the Corporation. There is no merit in the present petition, hence, the same be dismissed.

In our opinion, much history of the case is not required to be given as there had been different resolutions by the Gram Panchayat either resolving to exchange the land with the Corporation or cancelling that. One fact, which had come on record, is that the entire process for exchange of land started when the then Chief Minister had laid foundation stone for a

hospital on 15.8.1998. After the initial exchange of land, the matter remained in litigation. Finally, this court vide order dated 11.2.2014 set aside the order dated 14.12.2009 cancelling the earlier order passed by the Government permitting exchange of land by the Gram Panchayat with the Corporation and remitted the matter back for reconsideration. It was in the writ petition filed by the petitioner. The matter was remitted back to the Government. The operative part of the order passed by this court is extracted below:

“Suffice it to observe that the question as to whether the subject exchange is detrimental to the interest of the villagers or whether the subject exchange has lost its utility for the purpose for which it was decided to be exchanged, are the two factual issues which can be effectively resolved by the State Government in consultation with the Departments concerned. We may hasten to add that the question of setting up a college falls within the ambit of Education Department, while the site for setting up a hospital has to be decided by the Health Department. The Industries Department, on the other hand, would be the Nodal Department to represent the viewpoint of industrial workers to whom the sites for construction of the dwelling units need to be provided by a welfare State.

Consequently and for the reasons aforesaid we set aside the Government order dated 14th December, 2009 (Annexure P-12) for the limited purpose to enable the State Government to take an appropriate decision afresh on the basis of recommendations to be made by the Committee comprising

Principal Secretaries of the Departments of Education, Health and Industries. It will be appreciated if the Committee hear the Gram Panchayat and the HSIIDC or any other stake holder before making its recommendations to the State Government. The entire exercise shall be undertaken and the final decision shall be taken within a period of 3 months from the date of receipt of certified copy of this order. Till then, both the parties shall maintain status quo.”

The Committee consisting of Principal Secretaries of the Departments of Education, Health and Industries; Managing Director of the Corporation and Director, Department of Industries and Commerce, was constituted. For the meeting, notice was issued to the Sarpanch of the petitioner-Gram Panchayat. In the impugned order dated 16.1.2015, passed by the Government, it was noticed that the Corporation had already re-planned the area and created third party rights by allotting sites for group housing schemes. Even construction on some of the plots had been carried out. As regards the interest of inhabitants of the village, it was noticed that there had been conflicting resolutions passed at different times, apparently on account of village politics. The Corporation had withdrawn its consent for exchange of land. The exchange of land was allowed for the purpose of construction of 100-bed hospital, which has neither been constructed nor there is any proposal of the Government to construct the same at the site. Considering these facts, the earlier order dated 23.12.1998 approving exchange of land with the Corporation is cancelled.

Considering the aforesaid factual matrix of the facts, as noticed in the impugned order, we do not find that the same suffers from any

illegality.

For the reasons mentioned above, the writ petition is dismissed.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

27.2.2017
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No