

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.24037 of 2017 (O&M)

Date of Decision: November 10, 2017

Yaddin

. . . . Petitioner

Vs.

State of Haryana and another

. . . . Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.Satish Chaudhary, Advocate,
for the petitioner.

Mr.Saurabh Mohunta, DAG, Haryana.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed for seeking a writ in the nature of certiorari for quashing the impugned orders dated 17.8.2017 and 8.9.2017.

The petitioner is the Sarpanch of Gram Panchayat Village Madhi, Tehsil Nagina, District Nuh, Mewat. One Farukh of the same village made a complaint against the petitioner in which inquiry was conducted by the SDO Civil, Ferozpur Jhirka, and vide his report No.4198 dated 4.5.2017 found that the petitioner has not produced the Panchayat record, regarding the alleged theft of the Panchayat record, he did not give any information to the higher officials and no FIR is registered which shows his carelessness and that he had withdrawn the amount paid to the labour under the MANREGA Scheme by forging the documents. Consequently, he was served with a *show cause notice* on 29.5.2017 to which he submitted reply on 19.6.2017 alleging that the record of the Panchayat is with his brother Deen Mohd. and denied other allegations. The Deputy Commissioner was

not satisfied with the reply and afforded personal hearing to the petitioner. Thereafter, it was found that he has misused his position as Sarpanch and while exercising his power under Section 51 of the Haryana Panchayati Raj Act, 1994 [for short 'the Act'] placed him under suspension while appointing District Revenue Officer, Nuh for holding regular enquiry. Order dated 17.8.2017 passed by respondent No.2 was challenged by way of appeal, filed under Section 51(5) of the Act, before respondent No.1. In the appeal also the same grounds were taken by the petitioner that the old and new record of the Gram Panchayat has been forcibly taken away by his real brother and the same person had withdrawn the amount of the labour under the MANREGA Scheme from the post office by forging documents. Respondent No.1 upheld the order of respondent No.2 and directed the District Revenue Officer, Nuh to complete the enquiry within one month from the date of receipt of his order. Hence, the present petition has been filed.

The petitioner has appended the true translated copy of the application as Annexure P-3 in which he has put the date as 1.1.2017. This application is purported to have been made to the Station House Officer, Police Station, Nagina and it is alleged that he did not register the complaint and returned the same to the petitioner. He has also referred to a letter of respondent No.4 written to the BDPO, Nagina dated 5.6.2017 regarding initiating disciplinary action against Din Mohd. and Yaddin.

On 09.11.2017, this Court passed the following order: -

“Counsel for the petitioner submits that Deen Mohd. S/o Yasin, Isha S/o Deen Mohd. and Farukh S/o Jhuru Deen had forcibly taken

away old as well as new records of the Panchayat from the petitioner and he had lodged a complaint to the Station House Officer, Police Station Nagina in this regard on 01.01.2017. The petitioner is claiming his innocence on the ground that since the record has been taken away from him by the aforesaid persons and no FIR has been registered against them despite his complaint dated 01.01.2017, therefore, he has been wrongly put under suspension.

Since the Court is now concerned about the record of the Panchayat, about which the petitioner had made a complaint on 01.01.2017, therefore, in order to ascertain as to what is the progress in that case, the Station House Officer, Police Station Nagina is directed to be present in the Court on 10.11.2017.

Adjourned to 10.11.2017.

To be shown in the urgent list.

A copy of this order be given to the learned State counsel under signatures of the Special Secretary attached to this Court, for compliance.”

In pursuance thereof, SI, SHO, Satbir Singh, Police Station Nagina is present in Court. He has submitted through counsel for the State that no complaint dated 1.1.2017 (Annexure P-3) was ever made to him and has produced the register in which the complaints are registered.

In reply, learned counsel for the petitioner has submitted that the complaint was made the SHO and he drew the attention of the Court to some endorsement on the vernacular of Annexure P-3.

Learned counsel for the petitioner was then asked to produce the original of Annexure P-3 which was duly produced by him as the petitioner is also present in Court. The vernacular of Annexure P-3 shows that the said endorsement is by BDPO in which he has mentioned that “*SHO Nagina for further perusal.*”

The said application is also not dated 1.1.2017 but 21.1.2017. The petitioner has deliberately concealed the actual date from this Court and has put a false date on Annexure P-3 as 1.1.2017 which is otherwise denied by the petitioner on the ground that it was only due to some clerical mistake. The Court has taken this impression that it is deliberately mentioned as 1.1.2017 because the report was made by the SDO Civil, Ferozpur Jhirka vide Sr. No.4198 dated 4.5.2017 in which he had categorically mentioned about the theft of Panchayat record and for not giving information to the higher official showing his carelessness. The petitioner, in order to cross the aforesaid hurdle of not registering the case of theft of the Panchayat record, mentioned the date as 1.1.2017 which is otherwise 21.1.2017, much after the report of the SDO Civil, submitted by him to the Deputy Commissioner. There is a calculated concealment of facts the petitioner by giving the wrong date and mentioning that the complaint Annexure P-3 was made to the SHO

which is otherwise submitted to the BDPO as the original is with the Court in which it is specifically mentioned.

In view thereof, I am of the considered opinion that there is no error on the part of the respondents in passing the impugned order against the petitioner and hence, the present petition is hereby dismissed with cost of ₹50,000/- which shall be deposited by the petitioner with the Legal Services Authority, Mewat within a period of two months and in case the cost is not paid in time, the Member Secretary, Legal Services Authority, Mewat shall initiate necessary action in terms of the Punjab Land Revenue Act, 1887. The BDPO is further directed to take necessary steps immediately to recover the Panchayat records from the brother of the petitioner.

November 10, 2017

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Y--es/No