

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 25275 of 2017

Date of decision : November 7, 2017

Dilbagh Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

**Present:- Mr. H. S. Batth, Advocate
for the petitioner.**

RAKESH KUMAR JAIN, J (oral).

This petition is filed by the Panches of the Gram Panchayat Padhari Kalan, Tehsil & District Taran Taran to challenge the order dated 13.10.2017 passed by respondent No.1 for setting aside the order passed by respondent No.3 under Section 200 (1) of the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act') appointing Jagir Singh, VDO as the Administrator.

The Gram Panchayat, Padhari Kalan has 9 Panches and 1 Sarpanch. It is alleged that there is no co-operation amongst the Panches of the Gram Panchayat. Some of the Panches made a complaint to the BDPO that because the Sarpanch is not able to complete the development work of the Panchayat therefore, the Administrator may be appointed to work on behalf of the Panchayat. The BDPO, Taran Taran served a notice dated 25.8.2017 for a meeting in his office on 29.8.2017. After the said meeting

was held, he reported to the DDPO vide his letter dated 8.9.2017 that the quorum of the Gram Panchayat, Padhari Kalan is not complete and recommended to appoint a Government employee as the Administrator to execute the work under the Rural Mission Scheme for Street drains, cremation ground, S. C. Dharmshala and Balmiki Dharamshala etc. and under the Swach Bharat Scheme for construction of laterines in the village and to implement the ODF for the Gram Panchayat. The District Development and Panchayat Officer, Taran Taran served notice to the members of the Panchayat directing them that if the development work is not started till 14.9.2017 then all the members including the Sarpanch should appear in his office on 15.9.2017 for personal hearing. The DDPO passed the order dated 20.9.2017 and observed that the development work had not been initiated till 14.9.2017, therefore, appointed Jagir Singh as Administrator by exercising his power under Section 200 (1) of the Act.

Aggrieved against the said order, four Panches and Sarpanch filed the statutory appeal to respondent No.1 which was allowed vide order dated 13.10.2017 hence the present petition has been filed by one of the Panches of the Gram Panchayat.

Learned counsel for the petitioner has submitted that the impugned order is contrary to the facts available on record because the order of the DDPO has been set aside by the Special Secretary, Govt. of Punjab, Department of Rural Development and Panchayat on the ground that notice was not issued to all the Panches. He has referred to the notice dated 25.8.2017 served by the BDPO for convening a meeting of the Panches in his office on 29.8.2017 and also to Annexure P-2 in which the presence of all the members of the Panchayat is marked who had attended the meeting

in the Office of the DDPO. It is submitted that the impugned order is illegal, therefore it deserves to be set aside.

During the course of hearing, learned counsel for the petitioner has admitted that vide order dated 8.9.2017 the DDPO asked the Panches to start the development work and has also asked the Panches and Sarpanch to appear in his office on 15.9.2017 at 10.00 A.M. for personal hearing and observed in the notice dated 8.9.2017 that if the work would not start by 14.9.2017 then he may appoint a Government employee as an Administrator.

It is also submitted by him that the reason for appointment of the Administrator is basically the said notice because the development work was not started by 14.9.2017 as there is no co-operation amongst the members of the Panchayat.

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

In order to appreciate the arguments it would be relevant to refer to Section 200 (1) of the Act which reads as under:-

“200. Default of duties by the Panchayats. (1) Where a Panchayat makes a default in the performance of any duty other than a judicial function imposed upon it by or under this Act or under any other law for the time being in force:

- (i) in the case of a Gram Panchayat, District Development and Panchayat Officer; and
- (ii) in the case of a Panchayat Samiti or a Zila Parishad, the Director; may by an order in writing fix the period for the performance of the duty and if it is not performed within the period so fixed, he may appoint any other person to perform the duty and direct that the expenses arising from, and incidental to, its performance shall be paid by the Gram Panchayat.”

performance of any duty other than a judicial function imposed upon it by or under the Act then the Block Development and Panchayat Officer has to give a notice in writing to the Panches to perform the said duty and in case the said duty is not performed within the period so fixed then he can appoint any other person to perform the duty and the expenses arising from and incidental to its performance shall be paid by the Gram Panchayat.

In the present case, the situation is altogether different because no period in writing was fixed by the DDPO for the Gram Panchayat to perform the alleged duty rather he has fixed the time for the purpose of initiating the duty which is not the spirit of the Act because the Act provides that the DDPO has the power to replace the democratically elected body by a Government employee but the DDPO has to give a stipulated time to the Panchayat to perform the duty and if the Panchayat fails to perform the duty then the DDPO would have jurisdiction to pass the order of appointment of the Administrator.

This, in my considered opinion, even if the impugned order challenged by the petitioner is not in accordance with law because he has stated that the said notice was given to the Gram Panchayat but the order passed by the DDPO is basically illegal and erroneous. Therefore, the present petition is found without merit and the same is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

November 7, 2017
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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No