

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

CWP No.4804 of 2017

Date of Decision.09.03.2017

Ram Chander

.....Petitioner

Vs

State of Haryana and others

.....Respondents

Present: Mr. M.S. Sindhu, Advocate and
Mr. Rajeev Sharma, Advocate
for the petitioner.

Mr. Sandeep S. Mann, Sr. DAG, Haryana
for the respondents.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

In pursuance of the order dated 08.03.2017, Ms. Navraj Sandhu, Secretary, Department of Gram Panchayat, Haryana is present in Court.

This Court was constrained to request the Secretary to be present in Court for the sole purpose of sensitizing the officers working under the Department of Gram Panchayat that as and when any complaint is received against the present Sarpanch or ex-Sarpanch, there has not been adherence to the statutory provisions of law. The present case is the classic example of the same.

The petitioner, being ex-Sarpanch, after a period of 16 years, has been held responsible for return of the amount, which is in blatant violation of provisions of Section 53(5) of the Haryana Panchayati Raj Act. The aforementioned provisions were brought to the notice of the officer yet there is no reference/adherence to the same. Even no opportunity for

the office of BDPO, Gannaur to deposit an amount of ₹1,12,42,779/- alleged to have been embezzled during his tenure including ₹24,50,742/- as principal and ₹87,92,037/- as interest @21% per annum within a period of 2 days of the receipt of the letter in the Panchayat fund, failing which disciplinary proceedings contemplated to be initiated against him.

According to the averments made in the petition, the aforementioned enquiry, which has been done in a most atrocious and blatant violations of principles of natural justice, has resulted into registration of the FIR, landing him in judicial custody since 19.01.2017.

Mr. M.S. Sindhu, learned counsel appearing for the petitioner submits that the petitioner has reserved the right to take appropriate measures for vindication of his life and liberty in the competent court of law.

Mr. Sandeep S. Mann, Sr. DAG, Haryana has informed that the order came to be passed in pursuance to the directions passed by this Court in CWP No.15229 of 2016 dated 01.08.2016. The statement of the petitioner was recorded on 16.08.2016 and therefore, rigours of provisions of law would not come in the way of the State in initiating the action as indicated in the impugned order.

The order of this Court did not indicate to take action against the so-called delinquent. The import of the order reveals that it was a most innocuous order in directing the decision to be taken on the representation, which could have been either way, in essence, positive or negative but the concerned authority below has not pondered upon the provisions of the law, much less, there is lack of application of mind. The order under challenge, in my view, is in violation of provisions of Section 53(5) of the Haryana

Panchayati Raj Act and the judgment cited by Mr. Sindhu in **Ram Kanwar Vs. State of Haryana and others 2011(3) RCR (Civil) 436**, therefore, not sustainable in the eyes of law.

Resultantly, the impugned orders (Annexure P-7 and P-8) are set aside, as they do not conform to the statutory provisions of law.

The aforementioned finding of mine shall only confine to the present case and would not have effect on the pending criminal action. The writ petition is allowed.

The Secretary, Department of Panchayat, Haryana present in Court has assured the Court that she will hold enquiry and sensitize the officers at the helm of affairs to apply the provisions of law in letter and spirit. Let this order be sent to the Secretary, Department of Panchayat, Haryana for onward compliance.

(AMIT RAWAL)
JUDGE

March 09, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No