

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-19039-2015 (O&M)
Date of decision-27.09.2019**

Gram Vikas Society

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ashish Verma, Advocate
for the petitioner(s).

Ms. Anju Arora, Addl. A.G., Punjab
for respondent Nos.1 to 3.

None for respondent Nos.4 & 5.

Mr. R.D. Sharma, Advocate for
Mr. Rajinder Sharma, Advocate for respondent No.6.

JITENDRA CHAUHAN, J.

This writ petition under Article 226 of the Constitution of India has been filed for issuance of a writ in the nature of mandamus for issuing directions to respondent No.2 to get a proper enquiry conducted against respondent Nos.4 to 6 from some fair and independent officer within a specific period.

Learned counsel for the petitioner submits that the petitioner society was formed by the residents of village Khasa for the welfare and development of the residents. Time and again, the society has been raising its voice against the irregularities committed by the authorities as well as

respondent No.6, ex-sarpanch of the village, during his tenure. After coming into being, it came to the notice of the society that the State government had issued several grants to the tune of ₹56 to 60 lakh to Gram Panchayat for various development works. It also came out that as per records, the Gram Panchayat had utilized all the aforesaid grants. However, respondent No.6 being the then Sarpanch of the village had completely misappropriated several grants viz. not even a single penny was spent on construction of Harijan Dharamshala, Mata Rani Dharamshala, construction of link road, construction of outgoing drainage and cleaning of village ponds. However, the records were fabricated by respondent No.6 in connivance with respondent No.5-BDPO and some other officials to show that the development works had been carried out and the entire grant stood utilized. Thus, the residents of the village filed complaints before various authorities, one such complaint dated 17.07.2013 (Annexure P-3) was submitted to Hon'ble the Chief Minister and various other higher authorities. Meanwhile, the residents of the village received a copy of letter dated 13.08.2013 (Annexure P-5) issued by respondent No.2 to respondent No.3, wherein the latter was directed to hold an inquiry with regard to the alleged role of the then BDPO, J.E. Panchayat, Secretary etc. Strangely, respondent No.3 instead of conducting the inquiry himself/herself, entrusted the same to respondent no.4, who in turn, though conducted the inquiry but it was merely an eye-wash inasmuch as neither he visited the spot, nor associated any authority from the Revenue Department nor made any assessment about the actual work done in the village. Meanwhile, the petitioner-society kept on pursuing the matter with the authorities.

Thereafter, it received a copy of letter dated 11.11.2013 (Annexure P-11)

issued by the office of respondent No.2 to show that the complaint made by the society has been forwarded to the Vigilance Bureau, Punjab. Ultimately, being aggrieved by the inaction on the part of the official respondents, the petitioner-society approached this Court by way of filing CWP-14242-2014 titled as '***Gram Vikas Society Vs. State of Punjab and others***', which was disposed of vide judgment dated 23.07.2014 (Annexure P-13) with a direction to respondent No.3 to look into the grievance of the petitioner detailed in the representation. Despite issuance of such direction respondents did not conduct proper inquiry. Again, the petitioner-society got issued a legal notice dated 19.01.2015 to respondent No.3 in this regard. After a lapse of two months the counsel for the petitioner received a copy of letter dated 18.03.2015 (Annexure P-14) issued by respondent No.2 to respondent No.4, wherein it was mentioned that on inquiry by respondent No.3, respondent No.6 had deposited an amount of ₹31,291/- which was found against him and the matter was filed as per order of respondent No.2. It was also noticed that the entire stock entered in the Panchayat Register was available.

Learned counsel contends that respondent No.6 is enjoying the patronage of some politicians from the ruling party. Due to this fact, no concrete action has been taken so far against the ex-sarpanch, respondent No.5 and other erring officials. The misappropriation done by respondent No.6 is writ large from the fact that he has deposited an amount of ₹31,291/-, however, he was let off merely by depositing the said amount. It is also to be noted that as per the inquiry report balance material i.e.62,000 bricks, 112 bags of cement, 625 feet sand, 431 feet concrete, 810 kgs iron and 207 feet stones were lying in the stock. However, this fact is falsified as

neither there is any godown or place available with the Gram Panchayat to store the above stock, nor it was actually found on the spot inspection on checking by the members of the society. In this background, learned counsel prays for entrustment of inquiry to some fair and independent officer.

On the other hand learned State counsel submits that on inquiry respondent No.6 was directed vide letter dated 03.11.2017 (Annexure R-5) to deposit an amount of ₹4,00,732/- within three days in the account of the Panchayat. In response thereto, respondent No.6 submitted reply dated 14.11.2017 (Annexure R-6) stating therein that CWP-19039-2015 was pending adjudication and therefore, the recovery proceedings be kept pending till the decision thereof. However, keeping in view the huge financial loss caused by respondent No.6 to the State exchequer, his request was declined vide order dated 14.11.2017 (Annexure R-7) and was again directed to deposit the amount in question within seven days.

Learned counsel for respondent No.6 has vehemently denied the allegations of misappropriation. On inquiry by respondent No.3, respondent No.6 had deposited an amount of ₹31,291/- which was found against him and the matter was filed as per order of respondent No.2. Without challenging the enquiry report, the petitioner preferred CWP-14242-2014 seeking entrustment of enquiry against respondent No.6 to some fair official. The writ petition was decided on 23.07.2014 (Annexure P-13). Instead of contesting the writ petition by disclosing about inquiry report dated 28.06.2014 (Annexure R-3/6) and order dated 24.12.2014 (Annexure R-5/6), respondent No.3 filed an affidavit after two years on 05.12.2017 that inquiry under Section 216 of the Punjab Panchayati Raj Act, 1994 was initiated against the answering respondent and recovery of an

amount of ₹4,00,732/- was ordered against him.

Heard.

It is to be noted that on the directions issued by this Court while disposing CWP-14242-2014, preferred by the petitioner-society herein, inquiry under Section 216 of the Punjab Panchayati Raj Act was conducted and a recovery of ₹31,291/- had been ordered against respondent No.6 to make good the financial loss caused by him to the Panchayat while holding the office of the Sarpanch of the Village. It is also to be noted that in CWP-14242-2014, earlier preferred by the petitioner-society, directions were sought to entrust the enquiry against respondent NO.6 to a fair and impartial officer. Same relief has been sought by the society in the instant petition as well. Once, recovery has already been ordered against respondent No.6 in pursuance of the proceedings carried out by the respondent in compliance of the directions issued by this Court in CWP-14242-2014, this petition is not maintainable as such *inasmuch* as the petitioner-society has not laid challenge to the enquiry reports in question. The proceedings initiated against respondent No.6 vide order dated 14.11.2017 (Annexure R-7) whereby recovery of ₹4,00,732/- has been sought to be made by respondent No.4 are subsequent to the filing of the present petition and as such cannot be gone into at this stage by this Court.

In view of the above, this Court does not find any ground to accept the prayer made in the instant petition, at this stage.

Dismissed.

27.09.2019

ps-I

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No