

CWP-14934-2018 (O&M)

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

**CWP-14934-2018 (O&M).
Decided on: February 14, 2019.**

Sukhwant Singh and others

.. Petitioners

VERSUS

State of Punjab and others

.. Respondents

*** * ***

**CORAM: HON'BLE MR.JUSTICE JASWANT SINGH
HON'BLE MR.JUSTICE ARUN KUMAR TYAGI**

*** * ***

**PRESENT Ms.Rakhi Sharma, Advocate,
for the petitioners.**

**Ms.Anu Pal, DAG, Punjab,
for respondent Nos.1 to 3, 5 and 6/State.**

**Mr.D.S.Virk, Advocate,
for respondent No.4.**

JASWANT SINGH, J. (ORAL)

Nine (9) petitioners namely Sukhwant Singh, Baldev Singh, Major Singh, Sarabjeet Singh, Kanwaljit Singh, Joga Singh, Jarman Singh @ Lalli, Tarsem Singh and Sukhdev Singh, are residents of village Chawinda, Tehsil Ajnala, District Amritsar.

Through the instant writ petition, the petitioners have challenged notice dated 25.1.2018 (Annexure P5), issued by the Block

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Development and Panchayat Officer (BDPO), Chugawan, Amritsar, whereby action for recovery for selling of soil after digging the same from the pond of the village was initiated and memo dated 3.5.2018 (Annexure P7), was issued whereby pursuant to notice dated 25.1.2018 (Annexure P5), a liability for an amount of Rs.52,30,900/- has been fastened for the alleged digging out and sale of soil. Challenge is also to a subsequent notice dated 11.5.2018 (Annexure P9), issued by the Block Development and Panchayat Officer (BDPO), Chugawan, Amritsar, seeking explanation before initiation of criminal proceedings.

The primary argument raised by the counsel for the petitioners is that without any proper inquiry or following the principles of natural justice, as also without any authority or sanction under any statutory provision, the impugned notices and action for recovery has been initiated and passed.

Upon notice to official respondent Nos.1 to 3, reply has been filed wherein it is stated that for the alleged excavation, even FIR No.141 dated 21.7.2018, under Section 379 IPC for committing theft as also under Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957, stands lodged at Police Station, Lapoke, District Amritsar Rural. In the reply, there is no mention of any statutory provision whereby such a recovery without resorting to any adjudication process could be ordered.

In view of aforesaid lack of clarification, the BDPO concerned, was summoned to appear before this Court.

At the time of resumed hearing today, Mr.Gurmeet

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Singh, BDPO concerned, has come present in the Court. He concedes that there is no mention of any statutory provision under which such an action or notice has been issued. In fact, he is unable to even refer to any such statutory provision.

The learned State counsel, on instructions from Mr.Gurmeet Singh, BDPO, states that impugned notice dated 25.1.2018 (Annexure P5), memo dated 3.5.2018 (Annexure P7) and subsequent notice dated 11.5.2018 (Annexure P9), be considered as withdrawn with liberty to the appropriate authority to take action in accordance with law.

Counsel for the petitioner, in view of the stand of Gram Panchayat as also the BDPO concerned/State, has no objection to adopting of such a recourse.

In view of aforesaid developments, the instant writ petition is allowed. Impugned notice dated 25.1.2018 (Annexure P5), memo dated 3.5.2018 (Annexure P7) and subsequent notice dated 11.5.2018 (Annexure P9), are hereby quashed. The respondent – State authorities are permitted to take fresh action in respect of subject matter by following the procedure in accordance with law.

(JASWANT SINGH)
JUDGE

February 14, 2019.
raj arora

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No