

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

CWP No. 20654 of 2019 (O&M)

Date of Decision: 28.08.2019.

Ajit Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Raj Kumar Garg, Advocate,
for the petitioner.

JITENDRA CHAUHAN.J.(ORAL)

The petitioner seeks quashing of notice dated 02.05.2018 (Annexure P-2) vide which he was summoned to appear before District Development and Panchayat Officer, Gurdaspur and; order dated 10.07.2019 (Annexure P-3) vide which a sum of Rs.1,32,525/- was ordered to be recovered from the petitioner.

Learned counsel for the petitioner contends that the assessment has been made in violation of the provisions contained in Section 216 of the Punjab Panchayati Raj Act, 1994 (for short “the Act”).

For ready reference, Section 216 of the Act is reproduced as under:-

“216. Liability of members of Panchayat.

(1) Every member of a Panchayat shall be liable for the loss, waste or misapplication of any money or property belonging to the Panchayat, if such loss, waste or misapplication is a consequence of his neglect or misconduct while such member and shall also be liable to pay interest at the prescribed rate, from the

date of loss, waste or misapplication, on the amount assessed under subsection (2) or subsection (3) as the case may be.

(2) The Block Development and Panchayat Officer concerned may, on the application of a Gram Panchayat or otherwise, and after giving the member concerned an opportunity to explain, assess, by order, in writing the amount due from him in account of such loss, waste or misapplication;

Provided that

(a) where such member happens to be the Chairman or a member of the Panchayat Samiti, the proceedings under this subsection shall be taken by the District Development and Panchayat Officer;

(b) where such member happens to be the Chairman, ViceChairman or a member of the Zila Parishad, the proceedings under this subsection shall be taken by the Deputy Director.

(3) Any person aggrieved by an order made under sub-section (2) may within a period of thirty days from- the date of such order, appeal to: -

(a) the District Development and Panchayat Officer, if the order has been made by the Block Development and Panchayat Officer;

(b) the Deputy Director, if the order has been made by the District Development and Panchayat Officer; and

(c) the Director, if the order has been made by the Deputy Director;

and on appeal being filed, the appellate authority may suspend the execution of the execution of the order upon such terms as to costs, payments of the amount involved or otherwise as he thinks fit and subject to the result of appeal, if any, the order of Block Development and Panchayat Officer, District Development and Panchayat Officer and the Deputy Director, as the case may be, shall be final.

(4) Notwithstanding anything contained in this section no person shall be called upon to explain why he should not be required to make good any loss, after the expiry of 109 four

years from the occurrence of the loss, waste or misapplication or after the expiry of two years from his ceasing to be a member, whichever is later.

(5) The State Government may call and examine the record of any order made under this section for the purpose of satisfying itself as to the legality and propriety of such order and may confirm, modify or rescind such order; Provided that no order prejudicial to any person shall be made by the State Government, unless that person has been afforded a reasonable opportunity of showing cause against the proposed order.

(6) The amount assessed as due from a member may, in the event of his death, be recovered from his legal heirs to the extent of property inherited by them from such member.”

In the impugned order (Annexure P-3) the deficiencies have been noticed by Sub Divisional Officer, Batala after visiting the spot. No cause of action accrued in favour of the petitioner to file the present petition. Even otherwise due procedure was followed while making the assessment by the competent authority.

No ground for interference is made out.

Dismissed.

However, the final order be passed after associating the petitioner.

28.08.2019.

SN

(JITENDRA CHAUHAN)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No