

**309 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**(1) CWP No.24771 of 2017 (O&M).
Date of Decision: 24.07.2019**

Narinder Kaur Sarpanch

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(2) CWP No.763 of 2018 (O&M)

Jaspinder Kaur Sarpanch

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(3) CWP No.10841 of 2018 (O&M)

Gurjit Singh Sarpanch

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(4) CWP No.10847 of 2018 (O&M)

Harmeet Singh Sarpanch

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(5) CWP No.14034 of 2018 (O&M)

Jasminder Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(6) CWP No.9581 of 2018 (O&M)

Kashmir Singh Sarpanch

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(7) CWP No.12287 of 2018 (O&M)

Gurmej Singh Ex-Sarpanch

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(8)

CWP No.12639 of 2018 (O&M)

Sukhwant Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(9)

CWP No.15525 of 2018 (O&M)

Paramjit Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(10)

CWP No.9593 of 2019 (O&M)

Mangh Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(11)

CWP No.18409 of 2018 (O&M)

Gurmail Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(12)

CWP No.20197 of 2018 (O&M)

Manjit Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(13)

CWP No.4273 of 2019 (O&M)

Harpal Kaur, Ex.Sarpanch

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. B.S. Sidhu. Advocate,
for the petitioner(s) in all the petitions.

Ms. Bhawna Gupta, DAG Punjab.

None for the complainant.

JITENDRA CHAUHAN J.

This judgment shall dispose of aforementioned thirteen civil writ petitions as common questions of facts and law are involved therein.

The facts are being taken from C.W.P. No. 24771 of 2017.

The petitioner has sought direction to respondent Nos. 4, 7 and 8 not to initiate any inquiry against them as the same had already been done twice on the same complaint made by the same persons.

It is contended that the petitioner was elected as Sarpanch of Gram Panchayat Dalla Block Moga in June 2013. A complaint was lodged against the petitioner to different officers and to the Minister Rural Development and Panchayat by six of the Panches. In pursuance thereof, the DDPO sent the copy of the complaint to the BDPO. The BDPO conducted an inquiry and after visiting the site noticed no lapse and recorded that the complaint had been made due to political factional rivalry. Thereafter, ADC (D) Moga conducted a detailed inquiry and no deficiency was found vide inquiry report dated 08.09.2017 (Annexure P-9). Thereafter, ADC Kapurthala sent a communication to the BDPO to produce the record of the Gram Panchayat Dalla before him for inquiry as he had received a complaint

made by six Panches addressed to the Minister Rural Development and Panchayat against the Sarpanch of village Dalla alleging embezzlement of funds. BDPO Moga also received a letter from DSP Vigilance Bureau Moga to produce the record of Gram Panchayat Dalla and other villages for inquiry.

It is contended that Punjab Panchayati Raj Act, 1994 is a complete Code in itself. The Government of Punjab, department of Vigilance had issued order dated 22.02.1983 (Annexure P-14) to the effect that Vigilance Bureau shall not entertain any complaint against the Sarpanch etc. and the same shall be sent to the concerned Administrative Department for inquiry and investigation.

Learned counsel refers to order dated 22.05.2006 (Annexure P-17) passed by this Court in CWP No.506 of 2006 to contend that the inquiry in the matter cannot be conducted by the Vigilance Bureau. Learned counsel relies upon **Monica Bedi vs. State of A.P. 2011(1) SCC 284.**

On the other hand, on behalf of the State, it is contended that the complainants have levelled very specific allegations not only against the petitioner(s) but also against the BDPO and DDPO with allegations that these officials had been taking their share out of the grants for each and every development work being executed under their supervision. The concerned DDPO was a party to the inquiry proceedings and as such he was not competent to conduct any inquiry regarding allegations which were against him. The DDPO has himself

conducted the inquiry and settled all the matters at his own level which is against the tenants of law. No person can be a judge in his own cause and an independent enquiry can only be conducted by an independent agency i.e. the Vigilance Department. There are specific allegations of misusing the funds out of the grant of Rs.6,74,28,848/- released to the Gram Panchayat.

It is further contended by the learned State counsel that communication dated 22.02.1983 (Annexure P-14) is a mere intra-departmental correspondence which is neither a notification nor a letter. It is further contended that in *Charanjit Singh vs. State of Punjab and others* rendered in CRM M-41977 of 2015 decided on 08.11.2016, this Court has held the letter/circular dated 22.02.1983 (Annexure P-14) to be bad in law. Learned State counsel further relies upon a judgment dated 14.12.2016 rendered in CWP-22426 of 2016 titled as *H.C. Arora Advocate versus State of Punjab and others*. It is further contended that when the allegations of embezzlement are made out, the vigilance department can investigate the matter because the Sarpanch and Panch fall within the definition of 'Public Servants'.

Heard.

In the complaint specific allegations of embezzlement have been levelled by as many as six Panches not only against the Sarpanch, Panches but also against BDPO and DDPO with the allegation that they have been taking share out of the grants meant for development work.

This Court in Charanjit Singh's case supra has held as under:-

“Thus, in the light of the same, the letter/circular in question containing instructions (Annexure R-1/T or R3/T) so impugned before this Court are bad in law and thus, exercising inherent powers under Section 482 Cr.P.C. this Court deems it expedient in the interests of justice to issue directions to respondent Nos.1, 2 and 3 to immediately register an FIR on the complaint (Annexure P4) of the petitioner and thereby to take appropriate proceedings expeditiously till its logical conclusion for the prosecution of culprits whoever may be, and howsoever high they may be as per law and to ensure that whoever has connived in the commission of this offence does not go scot-free. There may be a situation where similar complaints might have been filed throughout the State of Punjab against the Gram Panchayats and the concerned department officials which may have been put in deep freezer for obvious reasons and motivated cause, impels this Court to issue necessary directions to the DGP (Vigilance)/Director Vigilance Bureau, Punjab to constitute separate teams headed by the Director Vigilance Bureau, Punjab for each of such districts in the State of Punjab which team would include respective Senior Superintendent of Police (Vigilance) of the concerned district and senior officers in no case below the rank of Superintendent of Police, to scrutinize such complaints, register FIRs and initiate investigations immediately. The Director, Vigilance Bureau, Punjab shall submit periodic reports preferably after every 20 days of the necessary steps that have been initiated in this case and other cases, if any, till submission

of challans before this Court.”

The circular/letter relied upon by the learned counsel for the petitioner(s) was declared as bad in law. This Court had rather issued directions to register an FIR against Panchs and take appropriate proceedings expeditiously. The DGP (Vigilance)/Director Vigilance Bureau, Punjab was further directed to constitute separate teams for the complaints which might have been filed throughout the State of Punjab against the Gram Panchayats. This Court is of the opinion that when allegations of embezzlement are made out, the vigilance department is not precluded from investigating the matter and the earlier enquiry conducted by the interested officer are of no consequence and do not hold any sanctity. The judgment cited by the learned counsel for the petitioner(s) is distinguishable on facts. The cited case pertains to double jeopardy which is not the case in the instant case.

In view of above, no ground for interference is made out.

All the civil writ petitions are dismissed.

Photocopy of this order be placed on the files of other connected case(s).

24.07.2019.

SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No