

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

**CWP-22998-2019(O&M)
Date of decision-30.08.2019**

Hardial Singh and another

...Petitioners

Vs.

The State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Vikas Arora, Advocate
for the petitioner(s).

Mr. Vikas Mohan Gupta, Addl. A.G., Punjab assisted by
Mr. Sandeep Garg, Deputy Director, Department of Rural
Development and Panchayats.

JITENDRA CHAUHAN, J.

This writ petition under Articles 226/227 of the Constitution of India has been filed for the issuance of a writ, in the nature of certiorari for quashing the order dated 02.07.2019 (Annexure P-3), whereby Administrator has been appointed under Section 200(1) of the Punjab Panchayati Raj Act, 1994 (herein referred to as 'the Act') in an arbitrary manner.

It is asserted that Administrator has been appointed to carry out the work of the village, despite the fact that the duly constituted Gram Panchayat is already functioning and has complete quorum in view of the resolutions passed. In fact, a number of Panches are either not attending the meeting or are not agreeing for the development works of the village, when

such meetings are convened and notices issued by the Sarpanch. The District Development and Panchayat Officer (DDPO) of the concerned area instead of taking action against such Panches, who are not carrying out their duties for the development of the village, has passed the impugned order dated 02.07.2019 (Annexure P-3). Learned counsel for the petitioners further submits that as per Section 20 of the Act, where a Panch or Sarpanch fails to attend the meeting or comply with the directions, he or she can be suspended.

Vide order date 28.08.2019, this Court had passed the following order:

“Notice of motion.

At the asking of the Court, Mr. Vikas Mohan Gupta, Addl. A.G., Punjab, who is present in the Court, accepts notice on behalf of State of Punjab. A copy of paper book has been supplied to him.

Post again on 30.08.2019.

The recommendation made by respondent No.5 vide order dated 03.07.2019 (Annexure P-3) be not acted upon in the meantime.”

Today, Sh. Sanjeev Garg, Deputy Director, Department of Rural Development and Panchayats is present in person. Learned State counsel on instructions submits that the matter has been considered at the highest level and assures that before appointing an Administrator, the following procedure shall be followed by all the concerned authorities, as provided under Section 200 of the Act:-

1. In case any Panch or Panches do not attend the meeting for two consecutive months without a reasonable cause, then he or she can be suspended under Section 20(1)(d) of the Act.

2. In case Panch or Panches attends the meeting as called by Sarpanch, but do not agree with the development agenda, without any reasonable cause, then such Panch or Panches can be suspended under Section 20(1)(e) or (f) of the Act.
3. In case Panch or Panches attends the meeting and in case of equality of votes during such meeting, then in such case Sarpanch shall have the 'casting vote' as provided under Section 24(3) of the Act.
4. In case if Panch or Panches are attending the meeting, but Sarpanch fails to pass the resolution for the development of work, even after exercising his 'casting vote' by majority, then in such cases DDPO shall issue a notice to such Panchayat providing a time limit to discharge its duties and if at the expiry of such time provided for discharging the duties, the Sarpanch fails to carry out the work, in that eventuality, an Administrator shall be appointed by DDPO as provided under Section 200 of the Act.
5. Any person aggrieved from the appointment of the Administrator has a remedy to object as provided under Section 201 of the Act to higher authorities.

Learned State counsel further submits that if any order of appointment of an Administrator has been passed by the concerned DDPO, then such order shall be kept in abeyance, unless and until the above referred procedure is not complied with. In this regard, learned State counsel refers to letter dated 07.11.2012, copy of which is taken on record as Mark 'A', in CWP-22688-2019, in which such instructions have been issued.

Learned State counsel further states that in the cases where *Panches* are not cooperating with the *Sarpanches*, notice to them will be issued as per law and he further assures that the impugned order dated 02.07.2019 (Annexure P-3) will be kept in abeyance and the facts of each case will be revisited and a fresh order as per instructions dated 07.11.2012 and the procedure laid down in the Act, will be passed.

In view of the above, learned counsel for the petitioners seeks to withdraw the present petition.

Dismissed as withdrawn.

30.08.2019

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No