

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-22815-2019 (O&M)  
Date of decision-30.08.2019

Gurmail Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. N.P.S. Mann, 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.

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**JITENDRA CHAUHAN, J.**

The present writ petition has been filed to quash order dated 28.03.2019 (Annexure P-3) whereby Block Development and Panchayat Officer has directed the petitioner to deposit an amount of ₹12,20,202/- and has also recommended for registration of FIR, in violation of Section 216 of Punjab Panchayati Raj Act, 1994 (for short 'the Act').

On 28.08.2019, the following order was passed by this Court:-

*“The Court is not inclined to issue notice of motion in the case at this stage.*

*A copy of paper book has been supplied to Mr. Vikas Mohan Gupta, Addl. A.G., Punjab in the Court.*

*Learned State counsel is directed to have instructions whether prior to passing the order dated 28.03.2019 (Annexure P-3) an opportunity of hearing was afforded to the petitioner or not.*

*Post again on 30.08.2019.”*

Today, learned State counsel on instructions states that Government has issued letter dated 29.08.2019 to all the Block Development and Panchayat Officers, in the State of Punjab to strictly comply with the directions contained under Section 216 of the Act. Copy of letter dated 29.08.2019 is taken on record as Mark 'A'. Learned State counsel submits that any order passed by Block Development and Panchayat Officer for effecting the recovery from any Sarpanch, Panch, or Panchayat member on account of any loss caused to the Gram Panchayat shall not be issued, unless and until a show cause notice is issued to such affected Sarpanch, Panch or Panchayat member. He further asserts that before effecting any recovery for the loss caused to the Panchayat, along with issuance of notice under Section 216(2) of the Act, copy of the inquiry report, on the basis of which recovery has to be effected, shall be sent to the affected person and 15 days time shall be granted for filing reply. In case, any affected person seeks an opportunity for personal hearing, then Block Development and Panchayat Officer shall be under obligation to grant opportunity of hearing to such affected person. Further, as per inquiry report and after considering the reply submitted by such affected person, if any recovery has to be effected, then a speaking order shall be passed by the concerned Block Development and Panchayat Officer.

Learned State counsel further submits that if any notice for effecting recovery has already been issued, which is not in consonance with the above referred directions, such orders shall be reviewed by the Block Development and Panchayat Officer and fresh proceedings shall be initiated under Section 216(2) of the Act. Further, it has also been made clear that if any Block Development and Panchayat Officer not comply with

the above referred directions, then disciplinary proceedings shall be initiated against such Block Development and Panchayat Officer.

In view of the above, since Department has considered the grievance of the affected persons and has issued certain mandatory instructions to be followed by the Officers before initiating any recovery proceedings as provided under Section 216 of the Act, the present petition is allowed with the directions to all the Block Development and Panchayat Officers in the State of Punjab, to adhere to the instructions issued vide communication dated 29.08.2019 (Mark 'A') in letter and spirit.

Therefore, in view of the instructions issued by the Department, impugned order dated 28.03.2019 (Annexure P-3) cannot sustain and same is hereby quashed with liberty to the respondents to initiate fresh proceedings, if any, for recovery under Section 216 of the Act, after complying with the above referred instructions (Mark 'A').

**30.08.2019**

*ps-I*

**(JITENDRA CHAUHAN)**  
**JUDGE**

Whether speaking/reasoned :                      Yes                      No

Whether Reportable :                                Yes                      No