

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

Civil Writ Petition no. 23677 of 2019 (O&M)

Date of Decision: 23.10.2019

Nisar, Sarpanch

.....Petitioner

versus

Haryana Human Rights Commission, Chandigarh and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIV SHARMA, JUDGE**

Present : Mr. Surinder Kumar Daaria, Advocate,
for the petitioner.

RAVI SHANKER JHA, CHIEF JUSTICE (oral)

The petitioner is aggrieved by the complaint dated 19.03.2019 (Annexure P-5) filed by respondent No.2 and the impugned order dated 26.03.2019 (Annexure P-6) passed by the Haryana Human Rights Commission.

The case of the petitioner in nut-shell is that the Haryana Human Rights Commission has no jurisdiction to entertain the complaint filed by respondent No.2 qua the allotment of shamlat land. We have gone through the order passed by the Haryana Human Rights Commission. The Commission has sought the reports from Deputy Commissioner, Gurugram and Block Development and Panchayat Officer, Gurugram. The petitioner submits that he had already filed a reply to the complaint of respondent No.2 before the Haryana Humans Right Commission and placed on record by way of separate C.M. No.15644-2019.

We have gone through the entire scheme of the Punjab Village Common Lands (Regulation) Act, 1961 more particularly Section 5 of the Act and the Punjab Village Common Lands (Regulation) Rules, 1964.

According to the plain language of the 3rd proviso to Section 5 of the Act, the land can be allotted to the villagers by the Collector in consultation with the Panchayat in such a manner as may be prescribed. According to Rule 3 of the Punjab Village Common Lands (Regulations) Rules, 1964, the Panchayat is required to prepare a land utilization plan of the land in *shamlat deh* vested in it under the Act. This plan is required to be approved by the Panchayat Samiti (a) where the area exceeds 100 acres does not exceed 500 acres; (b) by the Zila Parishad where the area exceeds 500 acres but 1 exceed 100 acres and (c) the Government where the area exceeds 1,000 acres. It is also evident that only 50% of the cultivable land can be allotted by the Collector.

According to the complaint, the encroachments on the land have been made in village Nunera, Tehsil Sohna, which was used by the villagers for common purposes i.e. for cattle and other permanent purposes.

According to the learned counsel, the land has been allotted on the basis of the resolution passed by the Gram Panchayat which was approved by the Block Development & Panchayat Officer. The allotment prima-facie made to the persons mentioned in the allotment letters is in negation of the mandate of the Act as well as the Rules. This matter is required to be looked into by the authority not below the rank of the Financial Commissioner (Revenue). The petitioner has made the allotments being Sarpanch of the village to 74 villagers.

Accordingly, we dispose of this writ petition with a direction to the Financial Commissioner (Revenue) to look into the entire gamut of the matter and to find out whether the allotments made to 74 persons are in accordance with the Act and the Rules framed thereunder.

As far as the objection raised by the petitioner qua the maintainability of the complaint before the Human Rights Commission is concerned, he has already filed a reply to the same. The Haryana Human Rights Commission is directed to decide the issue of jurisdiction raised by the petitioner after taking into consideration all the pleadings placed on record before it by the parties.

The Financial Commissioner (Revenue) shall conclude the enquiry within a period of four weeks from today and if necessary the land allotted to the persons illegally would be cancelled in accordance with law. We also make it clear that if the land allotted is found to be absolute in contravention to the Act and the Rules, the FIR shall be registered against the persons who are responsible for the distribution of the State largess in violation of the Rules.

With these observations, the petition is finally disposed of.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(RAJIV SHARMA)
JUDGE

23.10.2019

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Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√