

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.8119 of 2020 (O&M)
Date of Order:18.06.2020

Shamim Khan and others

..Petitioners

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikram Singh, Advocate,
for the petitioners.

ANIL KSHETARPAL, J.

The writ petitioners who claim to be elected members of the Zila Parishad, Yamuna Nagar, have filed the present writ petition under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the list of development works/projects dated 14.05.2020.

Some facts are required to be noticed.

The writ petitioners claim that Zila Parishad, Yamuna Nagar, approved a list of 40 development works (projects) in the meeting dated 10.09.2019. Thereafter, Zila Parishad received a sanction for an amount of 1,76,58,643/- as grant for carrying development works under different policies/schemes of the Government. In the meeting held on 03.12.2019, another list of different projects/development works for spending the sanctioned amount of Rs.1,76,58,643/- was finalised. It is alleged that necessary funds for the aforesaid projects (development works) were not released, forcing the writ petitioners to file a Civil Writ Petition No.4486 of 2020, decided on 18.03.2020. Operative part of the order reads as under:-

“Today, Mr. Rajesh Gaur, learned Additional Advocate

General, Haryana, would inform this Court that the matter was held up due to some differences between the past and the present Chair-persons of the Zila Parishad of District Yamuna Nagar and that steps are being taken to finalize the issue, so that funds are sanctioned for the development works to be undertaken. As it is for the authorities to decide as to what should be the development works to be undertaken by the Zila Parishad and to release the requisite amounts in accordance with due procedure, this Court sees no grounds to keep this writ petition pending for further adjudication.

The writ petition is accordingly disposed of directing the Chief Executive Officer, Zila Parishad, Yamuna Nagar District, the third respondent, to take appropriate action in this regard and ensure that the funds are released for undertaking the identified development works. Such sanction and release shall be undertaken expeditiously and in any event, not later than three weeks from the date of receipt of a certified copy of this order."

The present writ petition has been filed by the petitioners with a grievance that the list of projects/various development works as decided in the meetings of the Zila Parishad held on 10.09.2019 and 03.12.2019 has been amended/modified by the State government. It is the case of the petitioners that the State government could not modify/change the list of projects/development works to be undertaken for the purpose of utilizing the amount of grant under various schemes/policies.

Before this court examines the contentions of learned counsel for the petitioners, it would be appropriate to notice that by 73rd amendment Act, which came into force with effect from 24.04.1993, Part-IX of the Constitution of India was amended providing a separate chapter with respect to Panchayats. Apart from the Panchayats, Article 243(c) also provides for a body at intermediate level. Intermediate level has been defined to be a level between the village and the district level to be specified by the Governor of the State through a public notification. However, Zila

Parishad, a district level institution is not covered by Part IX of the Constitution of India.

Pursuant to the aforesaid amendment in the Constitution of India, the State Legislatures enacted new legislations to bring their legislations in line with the Part-IX of the Constitution of India. The State of Haryana also enacted the Haryana Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act of 1994'), which came in force with effect from 22.04.1994. The Act provides for three different institutions/bodies. i.e. Gram Panchayats, Panchayat Samitis and Zila Parishads. For regulating the works of the Zila Parishad, various provisions have been made in Part-IV of the Act of 1994. Section 118 of the Act of 1994 lays down that what would be the composition of the Zila Parishad. Under Section 137, the duties and functions of the Zila Parishad have been provided, which is extracted as under:-

DUTIES AND FUNCTIONS OF ZILA PARISHADS

137. (1) *A Zila Parishad shall advice, supervise and co-ordinate the functions of the Panchayat Samitis in the district.*

(2) *Without prejudice to the generality of the provisions of sub-section(1), a Zila Parishad shall have power to—*

- (a) give advice to Panchayat Samitis on its own motion or on the requirement of the Government or at the request of a Panchayat Samitis;*
- (b) co-ordinate and consolidate development plans prepared in respect of Panchayat Samitis ;*
- (c) secure the execution of plans, project, schemes or other works common to two or more Panchayat Samitis in the district ;*
- (d) exercise and perform such other powers and functions in relation to any development programme as the Government may, by notification, confer on or entrust to it ;*
- (e) advise Government on all matters relating to development activities and maintenance of services in the district, whether undertaken by Local Authorities or Government ;*

- (f) advice Government on the allocation work among Gram Panchayats and Panchayat Samitis and co-ordinate their work ;*
 - (g) advice Government on matters concerning the implementation of any statutory or executive order specially referred to by the Government to the Zila Parishad ; and*
 - (h) examine and approve the budget of Panchayat Samitis in the manner laid down in section 102 of this Act.*
- (3) The Zila Parishad may, with the prior approval of the Government, levy contribution from the funds of the Panchayat Samitis in the district.*
- (4) Notwithstanding anything contained to the contrary in this Act, a Zila Parishad shall, when required by the Government to do so, by an order in writing, exercise such supervision and control over the performance of all or any of the administrative functions of the Gram Panchayat and Panchayat Samiti within the district or any part thereof, as may be specified in the said order.*

On careful reading of Section 137 of the Act of 1994, it is apparent that a Zila Parishad is entitled to advise, supervise and coordinate the functions of the Panchayat Samitis in the District. The Panchayat Samiti is constituted at a Block level. The area of a revenue district is divided in different blocks. A block can have large number of Gram Panchyats located in the Geographical area of that block within its purview. Zila Parishad is a body created at district level.

On careful reading of Clause (d) of Sub Section 2 of Section 137 of the Act of 1994, it is apparent that a Zila Parishad has to exercise such other powers and functions in relation to any development programme as the government may, by notification, confer or entrust to it. Clause (e) of Sub-section 2 of Section 137 of the Act of 1994 enables the Zila Parishad to advise the government on all matters relating to development activities and maintenance of services in the district, whether undertaken by the local authorities or the government.

It is apparent from the reading of Section 137 of the Act of 1994, that the Zila Parishads have not been given powers to finally decide on the list of various development works/projects to be undertaken with the funds/grants received or to be received from the State Government.

It is not the case of the writ petitioners that the government by notification has conferred such other powers, including power to finally decide on various kinds of projects to be undertaken with the help of grant received. Clause (e) of Sub Section 2 of Section 137 of the Act of 1994 only enables a Zila Parishad to advise. Thus, the duties and powers of the Zila Parishad are well defined.

Still further, on careful perusal of the various projects listed in Annexure P-1 and Annexure P-2 show that the amount of grant was decided to be spent on laying streets, construction of community kitchens, repair and maintenance of community halls already constructed, situated in various villages. Annexure P-5 is the list of projects approved by the government for spending the grant. From careful perusal thereof, it is apparent that emphasis of the government is to spend more amount on laying the streets and drains. No doubt, the construction of Chopal (community center) has also been approved in a few cases. The writ petitioners have failed to show that how the list of projects/development works sanctioned by the government is arbitrary or not in public interest. It is expected that limited resources would be wisely/prudently spent on the development works so as to make an improvement in the quality of life of the residents. It is apparent that the projects sanctioned by the government are also for the benefit of the general public.

This court also does not have any wherewithal to identify

project which can be priority over the others. In the order dated 18.03.2020, this court while disposing of CWP No.4486 of 2020 has also observed that it is for the authorities to decide as to what development works should be undertaken with the grant received.

Learned counsel for the petitioners has submitted that the funds were directed to be released for undertaking 'the identified development' works as per lists Annexure P-1 and P-2. He emphasizes on the word 'identified development works' in order dated 18.03.2020 passed by this court to suggest that the projects/development works which have already been identified by the Zila Parishad could only be sanctioned by the government.

The submission of learned counsel for the petitioners does not appear to be correct as this court while passing the order has itself observed that it is for the competent authority to decide as to which of the development works are required to be undertaken.

Still further, learned counsel for the petitioners failed to draw attention of the court as to how the projects/ development works sanctioned by the Government are not for the benefit of the general public.

This court while exercising jurisdiction under Article 226/227 of the Constitution of India has a limited power of judicial review. Parameters within which such power is to be exercised are well defined. The court does not have expertise to identify which of the development work/works or projects would be more beneficial or are required to be given priority. In the considered view of this court, unless it is established that the government has exercised its powers in a arbitrary manner or the action is actuated by malafide, the courts should not interfere.

In view thereof, there is no ground to interfere.

Dismissed.

18th June, 2020
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No