

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

**CWP No.12023 of 2017
Date of Decision :08.01.2020**

Kuldeep Singh Nihang and another

.....Petitioners

Versus

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Arun Bansal, Advocate with
Mr. Anubhav Bansal and Ms. Rekha, Advocate
for the petitioners.

Ms. Lavanya Paul, AAG, Punjab.
Mr. Ashish Verma, Advocate for respondent No.8.
Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Mandeep Singh, Advocate for respondent No.9.

RAVI SHANKER JHA, CHIEF JUSTICE (Oral):

This petition has been filed by the petitioners allegedly in Public Interest against the order dated 03.03.2017 (Annexure P-7) by which the Financial Commissioner, Punjab, has permitted transfer of land on the basis of resolution dated 16.11.2016 of Gram Sabha, Phagganmajra, District Patiala. It is alleged that 106 kanals 15 marlas of land belonging to respondent No.9 has been exchanged with 89 kanals 18 marlas land of the Panchayat.

Learned counsel appearing for the petitioners submits that respondent No.9 acquired the land by paying an exorbitant price of Rs.61

lacs per acre and thereafter got the same exchanged with panchayat land valued at Rs.2-2.5 crores per acre, causing loss to the Panchayat. It is submitted that the concerned revenue officer, i.e. Tehsildar, submitted an incorrect evaluation report on the basis of which the matter was processed and ultimately the final orders have been passed transferring the land, causing loss to the gram panchayat and illegal benefit to respondent No.9. Learned counsel for the petitioners submits that the aforesaid loss of revenue to the panchayat has given rise to this Public Interest Litigation in which appropriate directions are sought to be issued and action be taken against the erring persons.

Learned Assistant Advocate General, Punjab, submits that the proposal to exchange the land of respondent No.9 with that of panchayat was moved through the panchayat on the basis of a resolution passed on 16.11.2016, whereafter the matter was verified by the Block Development and Panchayat Officer and the District Development Panchayat Officer, who assessed the comparative value of the land and submitted the reports before the Deputy Commissioner, Patiala. It is submitted that the Deputy Commissioner thereafter forwarded the matter to respondent No.2-Financial Commissioner, Urban Development and Panchayat Department, who verified the reports and thereafter passed necessary orders of exchange under Rule 5 of the Punjab Village Common Lands (Regulation) Rules 1964, after obtaining sanction from the Governor of Punjab. Learned Assistant Advocate General, Punjab further submits that the entire case was dealt with in accordance with the procedure prescribed by law and the decision has been taken by the authorities after due verification and examining the reports

submitted by the concerned revenue authorities. It is submitted that the land in question has been permitted to be exchanged in accordance with the provisions of Rule 5 of 1964 and while doing so, the authorities have also taken into consideration the fact that the land was exchanged for public welfare works like providing free schooling and hostels for special children, free computer coaching center, free tailoring and embroidery center, free beautician courses and free charitable multi-speciality hospital, which would provide free treatment of every disease and dialysis units on cheaper rate along with free eye operation etc.. It is submitted that apart from the aforesaid, the authorities, while permitting exchange, has also imposed strict conditions of providing 25% reservation in the employment to the residents of the village and benefit of treatment, education and training on the basis of first come first basis. It is submitted that there is a strict stipulation contained in the order permitting transfer that respondent No.9-Trust will use the land only for the purpose for which it has been given to it in exchange.

Learned Assistant Advocate General, Punjab further submits that there are no allegations of *mala fide* against any of the officers of the State and the entire process had been taken up in accordance with the procedure prescribed by law and the order has been passed after due application of mind. The allegations made by the petitioners are misconceived. The submissions of learned Assistant Advocate General Punjab, are reiterated by learned counsel appearing for the panchayat as well as learned senior counsel appearing for respondent No.9. Learned Senior counsel appearing for respondent No.9, in addition, submits that respondent

No.9-Trust is indulging in various philanthropic activities, which have been enumerated in para Nos. 4 to 14 of the reply filed by respondent No.9. It is submitted that respondent No.9-Trust has taken up the proposal to take up the project for fulfilling its charitable objects and would strictly comply with the conditions mentioned by respondent No.2 in the order of exchange.

We have heard learned counsel for the parties at length.

In spite of the repeated queries being made by this Court regarding documents or other evidence in support of the allegations made by the petitioners that the land given in exchange to respondent No.9 is valued at Rs.2-2.5 crores, nothing has been placed before this Court either in the petition or otherwise to establish that the value of the land was Rs.2-2.5 crores, as alleged. From a perusal of the records, it is apparent that the revenue authorities have submitted a report to the effect that respondent No.9 had purchased the land put for exchange @ Rs.61 lacs per acre and the panchayat land that has been given to the respondent No.9 in exchange is valued @ Rs.70 lacs per acre. The record further indicates that while 106 kanals and 15 marlas land has been taken over in exchange from respondent No.9, he has only been given an area of 89 kanals 18 marlas in exchange which is much less than the land that has been taken over from respondent No.9 in exchange. It is further evident from perusal of the petition that the petitioners have not made any allegation of *mala fide* or if officers of the State or the panchayat received any illegal gratification. Nor have they been impleaded by name in personal capacity as respondents.

On the contrary, learned counsel for the petitioners has fairly stated that he has no such apprehension or allegation to make against

respondent No.9, who is indulging in various philanthropic activities. In such circumstances, we are of the considered opinion that there is nothing on record to establish that the impugned order of exchange passed by the authorities suffers from any material illegality as it is based on the appreciation of the records submitted by the authorities and has been passed after following the due procedure prescribed by law as well as Rule 5 of Punjab Village Common Lands (Regulation) Rules 1964.

The petition filed by the petitioners being meritless is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

08.01.2020
Manoj Bhutani

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