

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-3786-2018 (O&M)
Date of Decision:-30.01.2020.

Balwinder Singh

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Amrik Singh, Advocate for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab, for
respondent Nos.1 to 5.

Mr. Dharminder Singh Randhawa, Advocate for
respondent No.6/applicant.

SANJAY KUMAR, J. (Oral)

CM-11758-CWP-2019

This application is not opposed as no response has been filed by the writ petitioner till date opposing the impleadment of the applicant as a party respondent in the writ petition. It is also an admitted fact that the applicant is one of the complainants against the writ petitioner.

The application is accordingly ordered and the applicant is brought on record as respondent No.6. Amended Memorandum of Parties is taken on record.

CWP-3786-2018

The petitioner was the Sarpanch of the Gram Panchayat of

to have demitted office in January, 2019. By way of the present writ petition, he assailed the inquiry proposed to be undertaken against him on the ground that it was motivated and intended to harass and humiliate him. The letters dated 13.12.2017, 18.01.2018 and 09.02.2018 (Annexures P-4 to P-6 respectively) addressed by the authorities were subjected to challenge in this regard. The letter dated 13.12.2017 was addressed by the Executive Engineer, Panchayati Raj, Public Works Division, Fatehgarh Sahib, the 5th respondent herein, to the Block Development and Panchayat Officer, Bassi Pathana, informing him that an inquiry would be conducted on 20.12.2017 into the possible misuse of Government grants and requesting that the complainant, Shri Sukhdev Singh, the concerned Sarpanch and the Panchayat Secretary should be present at the spot along with the records. The letter dated 18.01.2018 was addressed by the Divisional Deputy Director, Rural Development and Panchayat, Patiala, to the Block Development and Panchayat Officer, Bassi Pathana, requesting him to ensure that the complete record should be submitted and that the Panchayat Secretary should be present in his office on 19.01.2018. The last letter dated 09.02.2018 was again addressed by the 5th respondent to the Block Development and Panchayat Officer, Bassi Pathana. Thereby, the 5th respondent stated that the inquiry would be held on 13.02.2018 at the spot and that the concerned Panchayat Secretary, the Sarpanch and the complainant along with the Junior Engineer should be present.

It is therefore clear that the aforestated inquiry was being undertaken by the 5th respondent.

By order dated 17.02.2018, this Court stayed the inquiry sought to be undertaken pursuant to the aforestated letters.

Mr. Amrik Singh, learned counsel, would contend that the 5th respondent is not empowered to undertake an inquiry in terms of Section 205 of the Punjab Panchayati Raj Act, 1994 (hereinafter, 'the Act of 1994'), and the instructions issued by the Punjab Government on 02.01.1995 (Annexure P-7).

The 5th respondent filed a written statement on behalf of the authorities, respondent Nos.1 to 5. Therein, he stated that there was no violation of either the statutory provision or the instructions issued by the Government, insofar as proposed inquiry was concerned, and that the presence of the petitioner during such inquiry was necessary to know the truth. He stated that the petitioner was not co-operating with the inquiry and had not submitted the relevant Panchayat record.

No replication was filed rebutting the aforestated averments.

Section 205 of the Act of 1994 empowers the State Government to cause an inquiry into the affairs of a Gram Panchayat in relation to any matter through any of its officers. The instructions issued by the Government of Punjab *vide* Annexure P-7 are to the effect that complaints made against the Panches or Sarpanches should be inquired into only through one agency, i.e., the Director of Panchayats, and no such inquiry should be conducted directly by a departmental officer. However, clause 4 of the instructions states that a departmental officer is entitled to inspect the Panchayat record and also the work in question, as per law, and if any deficiency or embezzlement is detected, the same can be brought to the notice of the Director, who would then inquire into it.

It is therefore clear that in terms of the aforestated Government instructions it would be open to a departmental officer to inspect the work in

question along with the record of the Gram Panchayat and submit a report so that necessary action can be initiated at the level of the Director of Panchayats. In the case on hand, the 5th respondent is undertaking such an inquiry. It would not be possible for the Director to undertake spot inspections to detect irregularities, if any, in the execution of work and it would not be necessary in every such case that there should be an order from the Director appointing an Inquiry Officer. Such a requirement is not spelt out either in Section 205 of the Act of 1994 or the instructions in Annexure P-7. This Court also draws support from the observations made by a Division Bench of this Court in this regard in **Hari Singh Vs. Director of Panchayats, Punjab, Chandigarh, and others, 1975 AIR (Punjab) 36.** This being the legal position, this Court finds no grounds to interdict or stall the inquiry sought to be undertaken by the 5th respondent. The petitioner would necessarily have to face the inquiry and establish his claims.

The writ petition is accordingly dismissed leaving it open to the petitioner to do so. Interim order dated 17.2.2018 shall stand vacated.

No order as to costs.

(SANJAY KUMAR)
JUDGE

January 30, 2020.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.