

CWP No. 8686 of 2021

Date of Decision: April 22, 2021

Ranjit Kaur and others

.....Petitioners

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. C.L. Premy, Advocate for the petitioners

Sudhir Mittal, J. (Oral)

The petitioners are the Sarpanch/Panches of Gram Panchayat Salina.

They are aggrieved because they were suspended by respondent No. 2 and appeal against the order of suspension has been dismissed.

The order of suspension dated 13.08.2019 came to be passed because a petition filed under Section 11 of the Punjab Village Common Lands (Regulations) Act, 1961 (for short 'the Act') by the Gram Panchayat was withdrawn. It was found that the action of withdrawal amounted to placing personal interests above those of the Panchayat. Appeal has also been dismissed and the reason mentioned in the order of suspension has found favour with the learned Financial Commissioner.

Learned counsel for the petitioners submits that the petition under Section 11 of the Act was withdrawn as earlier judgments in which the Gram Panchayat was a party, were brought to the notice of the Panchayat and based thereupon and upon legal advice, the petition was withdrawn with liberty to file a fresh one on the same cause of action by furnishing better particulars. Thus, the inference that the interests of the panchayat have been suppressed for personal benefit, is uncalled for and the impugned order deserves to be set aside.

The judgments referred to by learned counsel for the petitioners are on record as Annexures P-5 and P-6. Vide judgment dated 15.12.1977 passed in CWP No. 782 of 1976 titled as ***Gram Sabha Salina vs. Nahar Singh and others***, writ petition against the order of Commissioner Ferozepur Division was dismissed and a finding was returned that the petition under Section 7 of the Act was not maintainable as there was no resolution of the Gram Panchayat supporting the petition. Letters Patent Appeal against the said judgment i.e. LPA No. 124 of 1978 titled as ***Gram Sabha Salina vs. Nahar Singh and others*** was dismissed vide judgment dated 12.03.1982. The effect of the aforementioned judgments was that petition under Section 7 of the Act was held to be maintainable. The same did not bar filing of petition under Section 11 of the Act and, thus, legal advice, if any, to the contrary was patently erroneous and for extraneous consideration.

Order of withdrawal of Section 11 petition is dated 17.07.2019 and is on record as Annexure P-15. A perusal thereof shows that no liberty was obtained to file a fresh petition on the same cause of action nor any submission was made that on account of lack of full particulars there were technical defects. The judgments, Annexures P-5, P-6 and legal advice are also not mentioned and, thus, submission of learned counsel to the contrary can not be accepted.

In view of the aforementioned facts, the authorities below were justified in concluding that withdrawal of Section 11 petition was not justified and that some other conditions were at play. The impugned order does not suffer any infirmity and does not call for any interference.

The petition is dismissed.

April 22, 2021

reena

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No