

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

CWP-9412-2021  
Date of Decision:-12.5.2021

DALIP SINGH

... Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

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**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA  
HON'BLE MR. JUSTICE KARAMJIT SINGH**

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Present:- Mr. R.S. Sangwan, Advocate  
for the petitioner.

Mr. Ankur Mittal, Add. A.G., Haryana.

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**KARAMJIT SINGH, J.**

Case has been heard through video conferencing on account of  
COVID-19 Pandemic.

Petitioner-Dalip Singh has filed this petition under Article  
226/227 of Constitution of India for issuance of writ of Certiorari to quash  
order dated 11.12.2018 (Annexure P-3) passed by respondent No.3-  
Commissioner, Rohtak Division, Rohtak exercising the powers of Director  
Consolidation under Section 42 of the East Punjab Holdings (Consolidation  
and Prevention of Fragmentation) Act 1948 (in short 'Act of 1948') whereby

the application dated 7.4.2018 (Annexure P-2) filed by petitioner under Section 42 of the Act of 1948 was disposed of in the following terms:-

“Today this case heard in presence of Counsel of the parties. During hearing it is found that in Case No.50/2017 Sudesh Kumar V/S Consolidation Department relating to this village consolidation proceeding has been revoked vide order dated 18.09.2018. Hence Consolidation work is to carry out from initial stage. Hence on the application of applicant no action can be taken. File be consigned to record room. Order pronounced.”

The petitioner has also sought writ of Mandamus directing respondent No.3 to decide his application dated 7.4.2018 (Annexure P-2), afresh on merits, in a time bound manner.

On notice of motion, Mr. Ankur Mittal, Addl. A.G., Haryana, who was having advance copy of the petition accepted notice on behalf of the official-respondents.

We have heard the counsel for the petitioner and the State counsel and gone through the record of this case.

The counsel for the petitioner while assailing order (Annexure P-3) submitted that the application (Annexure P-2) moved by the petitioner under Section 42 of the Act of 1948 was disposed of by respondent No.3 vide impugned order (Annexure P-3), which is a non-speaking order and has been passed without following the proper procedure prescribed under law. The counsel for the petitioner further argued that the impugned order (Annexure P-3) was passed by respondent No.3 on the basis of order dated

18.9.2018 (Annexure P-4), which is already under challenge in CWP-9003-2019 titled as Manphool Singh and Another vs. Commissioner Rohtak, Division Rohtak, which is pending for 27.7.2021

On the other hand the State counsel submitted that the entire consolidation proceedings regarding the village of the petitioner were cancelled by respondent No.3 vide order dated 18.9.2018 (Annexure P-4). It is further contended that even the impugned order (Annexure P-3) is based on the order dated 18.9.2018 (Annexure P-4), which has not been stayed till date by this Court. The State counsel further contended that impugned order is not suffering from any illegality.

We have considered the submissions made by the counsel for the petitioner and the State counsel.

From the perusal of order dated 18.9.2018 (Annexure P-4), it is clear that the consolidation proceedings of village Kakroli Hathi, Tehsil Badhra, District Charkhi Dadri completed in 2017, were cancelled and revoked by respondent No.3 with further direction that the consolidation proceedings in the village may be done afresh from initial stage as per rules with further clarification that Consolidation Officer and other employees relating to consolidation should decide the objections of general public by passing speaking orders and the Consolidation Officer was also to follow the following points while carrying out the consolidation proceedings afresh:-

- A) All the paths leads to village Kakroli Hathi to adjoining village be connected with 5 karam wide path.

- B) Proper arrangement be made for drainage and rainy water of the village.
- C) All Ponds, Jungles, lakes and water storage situated in village may not be disturbed and such items may be adjusted at the same places where these are situated and local environments, Geographically and circumstantial situation may not be disturbed by human actions.
- D) More than 8 acres of land may not be transferred and cutting of plants and trees also be stopped.

There is no dispute regarding the fact that order dated 18.9.2018 (Annexure P-4) passed by respondent No.3 has been challenged by Manphool Singh and others in CWP-9003-2019, which is now pending for 27.7.2021. However, there is nothing on the record to show that operation of order dated 18.9.2018 (Annexure P-4) passed by respondent No.3 has already been stayed by this Court. So till date the aforesaid consolidation proceedings which were completed in 2017, stands cancelled, on the basis of order dated 18.9.2018 (Annexure P-4).

From the perusal of Annexure P-2 it appears that the petitioner filed application under Section 42 of Act of 1948 before respondent No.3, in 2018. The said application was disposed of by respondent No.3 by passing impugned order dated 11.12.2018 (Annexure P-3) on the basis of the aforesaid order dated 18.9.2018 (Annexure P-4), whereby the entire consolidation proceedings were cancelled and revoked by respondent No.3 with further direction to conduct consolidation proceedings afresh.

This being the position, there was no occasion for respondent No.3 to decide application (Annexure P-2) of the petitioner, on merits. So, respondent No.3 disposed of the same, summarily, on the basis of previous order dated 18.9.2018 (Annexure P-4), which appears to be still operative.

In the light of the above, we conclude that there is no illegality or infirmity in the impugned order.

Consequently, this writ petition is hereby dismissed.

**(RAJAN GUPTA)**  
**JUDGE**

**(KARAMJIT SINGH)**  
**JUDGE**

**12.5.2021**  
Gaurav Sorot

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No