

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

CWP-13354-2020 (O&M)

Date of Decision: February 25, 2021

Gram Panchayat Village Bazidpur

.... Petitioner

Versus

The State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN
HON'BLE MR. JUSTICE VIVEK PURI**

Present: Mr. Raj Kumar Kakkar, Advocate,
for the petitioner.

Mr. Suveer Sheokand, Addl. Advocate General, Punjab.

VIVEK PURI, J.

The petitioner has assailed the order dated 19.07.2018 passed by respondent no. 3 vide which he had ordered the transfer of land measuring 100 kanals belonging to the petitioner – Gram Panchayat in favour of respondent no.2.

Precisely, the averments as put-forth by the petitioner are to the effect that the previous Gram Panchayat had passed a resolution dated 16.04.2017 whereby Gram Panchayat resolved to transfer 100 kanals of land belonging to it by way of gift to Department of Agriculture. Some other land owned by Agriculture Department was required for constructing a Satellite Centre of PGIMER, Chandigarh. Accordingly, the

Agriculture Department had demanded land for research work. The Gram Panchayat considered the request of the Block Development and Panchayat Officer, Ghall Khurd and passed the aforesaid resolution. It has been alleged that the Gram Panchayat, Village Malwal Qadim, Tehsil and District Ferozepur had also passed a similar resolution dated 27.04.2017 thereby taking a decision to denote 100 kanals and 2 marlas of land belonging to the Gram Panchayat in favour of Department of Horticulture by way of gift. The legality and validity of the impugned order dated 19.07.2018 passed by respondent no.3 has been disputed on the score that respondent no.3 has no jurisdiction to transfer the land belonging to the Gram Panchayat in favour of the Government Department.

Respondent no.3 in his reply has controverted the averments put-forth by the petitioner. It has been averred that the Gram Panchayat, Bazidpur had passed a resolution dated 16.04.2017 and in terms of the resolution, the land of Department of Agriculture has been taken for the establishment of Satellite Centre, PGIMER, Chandigarh in 25 acres of land. The petitioner had donated the land in question to the Department of Agriculture for research work. Respondent no.3 – Deputy Commissioner, is the competent authority to pass the impugned order and after passing of the impugned order, the necessary changes have been incorporated in the revenue record. Furthermore, physical possession has also been given by the petitioner – Gram Panchayat in the presence of the concerned officials which has been duly taken by Horticulture Department on 06.07.2020.

We have heard learned counsel for the parties and perused the record.

It has been argued by the learned counsel for the petitioner that the Deputy Commissioner – respondent no.3 was not the competent authority to pass any order with regard to the transfer of the land belonging to the petitioner. Furthermore, no gift deed attested by two witnesses has been executed and it shall not be in the general interest of the Gram Panchayat and the residents of the village to part with the panchayat land.

On the contrary, it has been argued by the learned State counsel that the Deputy Commissioner is duly authorized to accord approval for gift of the land as per the amendment carried out in the Punjab Village Common Lands (Regulation) Rules, 1964 (for short “Rules 1964”) in terms of the notification no. DP-L.D.2/2010/34 dated 14.06.2010 (Annexure R-3/2). Furthermore, the transfer has been carried out in pursuance of the Rules and the same is for the benefit of the residents of the border area in general and the residents of the Village Bazidpur in particular. The projects for construction of Satellite Centre, PGIMER, Chandigarh and the Horticulture Research Centre will be beneficial to the farmers and lead to multidimensional and multifaceted development of the area.

A proposal for construction of hospital of 100 beds in District Ferozepur under Satellite Centre, PGIMER, Chandigarh has been initiated. The land measuring 25 acres belonging to Agriculture Department has been chosen for the construction of the same. The Department of Agriculture had raised a demand of 25 acres of land against the said land for carrying out the research work. Consequently, the petitioner – Gram Panchayat and Gram Panchayat, Malwan Qadim passed

separate resolutions to donate 100 kanals and 100 kanals 02 marlas of land respectively. Considering the proposal of the Gram Panchayat, the respondent no.3 – Deputy Commissioner accorded approval for the gift of the land in favour of the Department of Horticulture for doing the research work against the land given by the Department of Horticulture for construction of Hospital by PGIMER, Chandigarh.

The impugned order has been mainly assailed on the ground that no gift deed attested by two witnesses has been executed and respondent no.3 i.e. the Deputy Commissioner was not competent authority to pass the impugned order. In this regard, it shall be appropriate to mention that in terms of the notification no. DP-L.D.2/2010/34 dated 14.06.2010 (Annexure R-3/2), the Rules 1964 were amended. The relevant portion of the amended Rule 13 provides as following:-

“13. Purposes for which land may be gifted. – A Panchayat may, with the previous approval of the Deputy Commissioner concerned, gift land in shamlat deh vested in it under the Act, for the following purpose namely:-

(a) to (c) xxxx xxx xxx

(d) for constructing Government Health Dispensary;

(e) xxx xxx xxx

(f) for constructing any building by any department of the State Government.”

The perusal of the aforesaid amended Rules make it amply clear that the Deputy Commissioner concerned i.e. respondent no.3 is the competent authority to accord approval for the gift of the shamlat land. In pursuance of the amendment, no clog can be placed upon the authority of

respondent no.3 to pass the impugned order, particularly when the same has been issued in pursuance of the duly passed resolution by the Gram Panchayat.

The resolution was passed by the Gram Panchayat on 16.04.2017 vide which it was decided to transfer the land to Department of Agriculture. Subsequently, the panchayat elections were held and new panchayat was constituted. Consequently, the newly formed Gram Panchayat has sought to challenge the action of the previous Gram Panchayat. The resolution authorizing the present Sarpanch to initiate the proceedings was passed on 08.07.2020 i.e. after a period of more than three years from the passing of the earlier resolution. It appears that with the change of guard, the present Gram Panchayat had sought to nullify the action of the previous panchayat without any significant substance and basis.

It is significant to note that the construction of 100 beds Satellite Centre, PGIMER, Chandigarh in the border area will cater the medical needs of the residents of the area including the residents of Village Bazidpur. Furthermore, the research work which will be carried out by the Horticulture Department in the transferred land will also be of much significance and benefit to the farmer community in the area. The land has been transferred for the general benefit of the residents of the area. Furthermore, in terms of order dated 19.07.2018, the mutation has also been incorporated in the revenue record and the physical possession of the land has been delivered. It may be mentioned here that in the impugned order, it has been mentioned that the transfer has been made under Rule 13(c) of the Rules 1964. However, it has been pointed out in

the reply that the same is due to a typographical error and Rule 13(c) has been referred to instead of Rule 13(f). The impugned order has to be read entirety and any typographical or clerical error will not render the same to be ineffective in any manner.

It is also pertinent to note that the petitioner has not challenged or sought to recall, revoke, rescind or cancel the earlier resolution dated 16.07.2017 passed by the previous Gram Panchayat vide which the land was resolved to be transferred in favour of the Department of Agriculture.

It shall not be out of place to mention here that the resolution with regard to the transfer of land was passed by the previous Gram Panchayat as back as on 16.07.2017. In pursuance thereof, the respondent no.3 – Deputy Commissioner has accorded the approval for transfer of the land in terms of the impugned order dated 19.07.2018. Thereafter, the mutation has been incorporated and the possession has been delivered to the Horticulture Department in terms of the proceedings dated 06.07.2020. It is only thereafter, the petitioner has sought to invoke the jurisdiction of this Court by filing the present petition. However, the elections of the Gram Panchayat were held on 30.12.2018, but the present Gram Panchayat displayed silence and inaction for a long period of time. It is only after the possession has been taken, the present petition has been instituted and it suffers from the vice of delay and laches.

As a cumulative effect of the aforesaid observations, there cannot be any dispute with regard to the competence of the Deputy Commissioner i.e. respondent no.3 to accord approval for the transfer of

the land by way of gift. As such, no illegality or irregularity is made out in the impugned order which may warrant interference by this Court.

In view of the above, the instant petition is, hereby, dismissed.

[JITENDRA CHAUHAN]
JUDGE

[VIVEK PURI]
JUDGE

February 25, 2021
vkd

Whether speaking/reasoned : *Yes*
Whether reportable : *Yes*