

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

CWP-18607-2021 (O&M)

Date of decision: 17.09.2021

Mohinder Pal

....Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Deepak Verma, Advocate for the petitioner
Ms. Kanica Sachdeva, AAG, Punjab

ANIL KSHETARPAL, J (Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The petitioner is an elected Sarpanch of the Gram Panchayat, Village Chaklil Sujjat, Tehsil Nawanshahr, District Shaheed Bhagat Singh Nagar. The petitioner assails the correctness of the notice issued for recovery of Rs.77,026/- from him. He filed an appeal before the District Development and Panchayat Officer-cum-Collector, Shaheed Bhagat Singh Nagar, which was dismissed on the ground that the letter no. 310 dated 04.03.2016 is not an order of recovery and it is just a notice issued under Section 216. Despite that the petitioner filed a petition under Section 216 (5) of the Punjab Panchayati Raj Act, 1994, assailing its correctness. The learned Director has dismissed the petition vide an order dated 28.05.2021, the operative part whereof reads as under:-

“After perusing the written arguments of counsels for both the parties and after going through the record, I have come to the conclusion that petitioner Mohinder Pal was used to deposit the

amount of water bills after collecting same from villager residents. SDO Water supply has written that petitioner Mohinder Pal Panch has not deposited an amount of Rs.77026/-. In this regard, as per record, Block Development & Panchayat Officer, Nawanshahr has written and while acting under section 216 has ordered Mohinder Pal Panch to deposit the amount within 30 days. Against this order, Mohinder Pal has filed an appeal under section 216 (3) with the court of District Development and Panchayat Officer, Shaheed Bhagat Singh Nagar. While challenging the orders passed by both the courts below, it has been argued that orders of courts below be quashed. The counsel for Gram Panchayat has argued that lower courts have passed the correct order after hearing and SDO Water Supply has clearly written that Panch Mohinder Pal has failed to deposit an amount of about Rs.77,026/-. Under Section 216 member Panchayat is under obligation to fulfill the financial loss caused. Therefore, correct order has been passed under section 216. Hence, from the arguments of Gram Panchayat and from record it is proved that Mohinder Pal is guilty of not depositing an amount of Rs.77,026/- and under section 216 of the Punjab Panchayati Raj Act, this amount is liable to be recovered from him. The petition of the petitioner is hereby dismissed.”

Learned counsel representing the petitioner contends that the order in question has been passed without hearing the petitioner. He contends that the District Development and Panchayat Officer did not hold any inquiry. He further contends that the petitioner had only signed

the receipts in token of having received the amount, although, the amount was collected by the Sarpanch.

With regard to the first argument, it may be noted that the petitioner neither before the District Development and Panchayat Officer or before the Director challenged the notice, on the ground sought to be projected before this Court. In a writ petition, the petitioner cannot be permitted to take up a new plea.

As regards the next argument, learned District Development and Panchayat Officer has already observed that there is no order for recovery. The letter dated 04.03.2016 is only a notice for which no inquiry is required to be held.

Furthermore, the petitioner himself admits that he has signed the receipt which is an evidence of the collection of the amount of water bills from the residents, for onward transmission.

Keeping in view the aforesaid facts, no ground to exercise jurisdiction under Article 226 of the Constitution of India, at this stage, has been made out.

Hence, dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

17.09.2021

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE