

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 20065 of 2020 (O&M)
Date of Decision:06.01.2021

Anjum

.....Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.D.V.Sharma, Sr. Advocate
with Mr. Gautam Kailey, Advocate
for the petitioner.

Mr. Sharan Sethi, Addl.AG., Haryana.

Mr. Afzal Hussain, Advocate
for respondent no.4.

LISA GILL, J(Oral).

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Prayer in this writ petition is for setting aside directions/order dated 16.11.2020 as well as order dated 18.11.2020 (Annexure P-3) passed pursuant thereto.

It is submitted that the Principal Secretary, Development and Panchayat, on complaint dated 16.11.2020 (Annexure P-2) submitted against the petitioner, endorsed a direction on the said complaint itself on 16.11.2020 to the effect that 'orders be passed to stop at once any FD from being encashed and the accounts of the Panchayat be also frozen until an enquiry is held by Additional Director on these allegations'. Thereafter, direction was issued by the Director/ Chief Vigilance Officer, Development and Panchayat Department, Haryana, on 18.11.2020 (Annexure P-3) that exchange of FD and bank account of Gram Panchayat Sahsola be attached

and enquiry be handed over to Superintendent Engineer (Panchayati Raj) Vigilance Wing, Rohtak.

The petitioner, it is submitted is democratically elected Sarpanch of village Sahsola, Tehsil Tawru, District Nuh. It is submitted that works in question were allowed to be carried out in accordance with law by the Deputy Commissioner, Nuh, respondent no.2 and the works were carried out under supervision of the concerned Junior Engineer (JE), Block Development and Panchayat Officer (BDPO) and Sub-Divisional Officer (SDO).

Mr. Dharam Vir Sharma, Sr. Advocate, learned counsel for the petitioner on instructions from Mr. Gautam Kailey, Advocate, submits that the petitioner has not desisted at any time, from handing over any record to the respondents. Moreover, the entire record is available with the Gram Sachiv of the area. The petitioner, it is submitted undertakes to fully cooperate with any enquiry etc, which may be initiated. However, action taken by the authorities in this arbitrary manner is stated to be unfair and unjustified. It is submitted that no action as envisaged under Section 47 or Section 51 of the Haryana Panchayati Raj Act, has been taken and aid of Section 48 of the said Act in a situation where specific provisions are present in the Act is not called for.

A short reply by way of affidavit dated 01.01.2021 of Sh. Ramesh Chander Bidhan, IAS, Director, Development and Panchayats Department, on behalf of respondents no.1 to 3, has been filed.

Learned counsel for the respondent-State is unable to deny that no show cause notice was issued to the petitioner and neither any opportunity of hearing was afforded to the Gram Panchayat, even in terms of Section 47 of the Haryana Panchayati Raj Act, 1994.

Learned counsel for the respondent-State, however, argues vehemently that there appears to be embezzlement of crores of rupees in this matter and on apprehension of imminent loss to the public exchequer due to a fraudulent withdrawal, prompt and immediate action as called for was in fact taken.

Be that as it may, admittedly, no opportunity of hearing has been provided to the Gram Panchayat. In this view of the matter, impugned order dated 16.11.2020, Annexure P-2 and order dated 18.11.2020 Annexure P-3, cannot be sustained and are accordingly set aside. Needless to say, there is no expression of opinion on merits or veracity of the averments in the present petition. Furthermore, the respondents are at liberty to take action, as may be required in accordance with provisions of law. In the meantime, keeping in view the peculiar facts and circumstances of this case, it is directed that withdrawal of any amount from the account of Gram Panchayat Sahsola, would be permitted only after due verification and affirmation by the Director Development and Panchayat or his nominee. Copy of this order be conveyed to the relevant banks, as well.

Writ petition along with pending applications, is accordingly disposed of.

06.01.2021
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.