

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(212)

CWP-21286-2020

Date of Decision : 11.01.2021

Gram Panchayat Village Chandrawali and Others

...Petitioners

Versus

State of Haryana and Others

...Respondents

(through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jai Vir Yadav, Advocate for the petitioners.

Ms. Rajni Gupta, Additional Advocate General, Haryana and
Mr. Sharad Aggarwal, Assistant Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

In the present writ petition, the grievance of the petitioners-Gram Panchayats is that the State has passed an order on 19.11.2020 (Annexure P-1) wherein a complete ban has been imposed for executing the development works by spending the amount, lying in the fixed deposit of the Gram Panchayats. This Court had issued notice of motion on 10.12.2020, which is as follows :-

“Learned counsel appearing on behalf of the petitioners submits that once the Gram Panchayats are independent bodies to take their own decisions with respect to the development and also has full authority to use the funds for undertaking development work required to be executed for the

benefit of the residents of the Gram Panchayat, the order passed by the respondent-State restraining the Gram Panchayat from using their own fund lying as fixed deposit in the Banks, is arbitrary and illegal.

Learned counsel for the petitioners further submits that the blanket order cannot be passed by the respondent-State restraining the Gram Panchayats from using the amount lying in fixed deposit for the reason that as and when any development work is undertaken by a particular Gram Panchayat by passing a resolution, the State as supervising authority assess the same as to whether the said resolution is in the interest of the Gram Panchayat or not and has jurisdiction to pass appropriate orders examining the resolution as and when presented before the Government.

Notice of motion for 04.01.2021.

Ms. Rajni Gupta, learned Additional Advocate General, Haryana, who has joined the proceedings through video conference, accepts notice on behalf of the respondents and seeks time to file reply.

Let the reply be filed positively by the next date of hearing as the petitioner Gram Panchayat is feeling prejudiced to the impugned order.

Prayer of the petitioner for the grant of interim order will be examined on the next date of hearing.”

When the case was taken up for consideration on 04.01.2021, the following order was passed :-

“Learned counsel appearing on behalf of the respondents-State submits that out of six gram panchayats, who have filed the present writ petition i.e. petitioners No.1 to 3 and 6, have already been merged in the Municipal Corporation, Faridabad and no longer exists as of now keeping in view the notification dated 30.12.2020, hence, the present writ petition qua those gram panchayats has been

rendered infructuous.

Learned State counsel further submits that with regard to grievance of petitioners No.4 and 5 qua the notification dated 19.11.2020 (Annexure P-1), last opportunity be granted to file the reply.

Learned State counsel undertakes to file the reply by 08.01.2021 positively and the grievance of petitioners in respect of the notification dated 19.12.2020 (P-1) will be considered on merits on the next date of hearing.

Adjourned to 11.01.2021.”

Today the reply has been submitted by the respondents-State wherein, the plea taken by the State for justification of issuing the order dated 19.11.2020 (Annexure P-1) has been given to the effect that there were certain complaints received by the authorities in respect of some Gram Panchayats about financial irregularities.

It is conceded by the learned counsel(s) appearing on behalf of the respective parties that keeping in view the provisions of the Haryana Panchayati Raj Act, 1994, the Government is still the supervising authority in respect of any resolution passed by the Gram Panchayats and any resolution which is passed by the Gram Panchayat, goes for the scrutiny/approval of the Government before the said resolution is implemented. That being so, a resolution passed by the Gram Panchayat for executing the development work, has to be approved by the Government before the execution of the proposed development work.

Once, a resolution passed by a Gram Panchayat is implemented after the Government approves that the resolution so passed by the Gram Panchayat regarding execution of development works is urgent and needs to be executed, then imposing any condition of not spending the amount which

is lying in the fixed deposit is not understandable. Similarly, in case the Government is of the view that the development works being proposed to be executed by the Gram Panchayat are not in interest of the village or the residents and the funds of the Gram Panchayats can be used in a better way to serve the residents by a particular Gram Panchayat, the Government can decline the said proposal of the Gram Panchayats.

Learned State counsel only reiterates that the impugned order has been issued so as to check the misuse of funds by the Gram Panchayat. The rules and regulations and the procedure for the checking the misuse of funds by the Gram Panchayat is already in place, even before the issuance of the impugned order. Issuance of the impugned order imposing complete ban on the use of the amount lying in the fixed deposit irrespective of urgency and requirement of a particular Gram Panchayat, especially, when the Gram Panchayats have Constitutional Right to administer themselves as envisaged under the Constitution of India, has not been explained to the satisfaction of this Court.

Faced with this situation, learned State counsel submits that in case any development work is to be executed by the Gram Panchayats, who have been arrayed as petitioners No. 4 and 5, they can pass any resolution and send the same to the Deputy Commissioner concerned, who will take appropriate decision on the said recommendations and pass appropriate orders on the proposal contained in the resolutions within a period of 7 days of the receipt of the said resolution. Learned State counsel further submits that in case any resolution has already been passed by petitioners No. 4 and 5-Gram Panchayat proposing execution of the development work, the same should be forwarded to the Deputy Commissioner, for his consideration and

passing appropriate orders on the said proposal and appropriate orders, as stated hereinbefore, will be passed within a period of 7 days of receiving the said proposal by the concerned Deputy Commissioner. Learned counsel further submits that in case the Deputy Commissioner is of the view that the development work being proposed by petitioners No. 4 and 5-Gram Panchayats, needs to be executed and grants approval for the same, the ban imposed in the order dated 19.11.2020 (Annexure P-1) for not spending the amount will not be a hindrance for the said Gram Panchayats to execute the development works.

Learned counsel for the petitioners submits that keeping in view the statement made by the learned State counsel recorded hereinbefore, the petitioners do not wish to press this petition as their grievance stands redressed.

In view of the above, the present writ petition is disposed of having been not pressed any further.

It is made clear that the respondents will be bound by the statement recorded hereinbefore.

January 11, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

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