

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

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**CWP-24651-2021(O&M)
Date of decision: 03.12.2021**

PREM SINGH AND ANR

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.V.S.Chugh, Advocate
for the petitioners.

Mr. Kanisth Ganeriwala, AAG, Punjab.

ANIL KSHETARPAL, J (Oral)

The learned counsel representing the petitioners admits that the previous petition filed by the petitioners was disposed of on 06.10.2021, with the following order:-

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

The petitioners are residents of village Khiali Challanwali and Jhunir, Tehsil and District Mansa. Through this petition, the petitioners pray for the following substantive reliefs:-

“(i) For issuance of appropriate writ, order or direction especially in the nature of certiorari for quashing the impugned action of the respondent No.7 and 8 in constructing shops over the panchayat land adjoining Civil Hospital, Jhunir and thereby using the same as commercial property and leasing out the same to their near and dear ones i.e. respondent no.9 to 16 without conducting any auction of draw of lots and thereby committing misappropriation of panchayat funds without taking any sanction of any competent authority in this regard in wrong and illegal manner, which is totally in the teeth of the plethora of judgments passed by Hon'ble Supreme Court of India especially dated 28.01.2011 in Civil Appeal No.1132/2011 titled as Jagpal Singh and others vs. State of Punjab and others (Annexure P-5).

(ii) Further writ in the nature of prohibitory thereby restraining respondent no.7 and 8 for constructing shopping complex without taking any sanction of any competent authority in this regard, in the area meant for public utility of the village and its surrounding areas.

(iii) Further during the pendency of the present petition before this Hon'ble Court, the impugned action of the respondent no.7 and 8 in constructing shops over the panchayat land adjoining Civil Hospital, Jhunir and thereby using the same as commercial property and leasing out the same to their near and dear ones i.e. respondent no.9 to 16 without conducting any auction or draw of lots and thereby committing misappropriation of panchayat funds without taking any sanction of any competent authority in this regard in wrong and illegal manner, which is totally in the teeth of the plethora of judgments passed by Hon'ble Supreme Court of India especially dated 28.01.2011 in Civil Appeal No.1132/2011 titled as Jagpal Singh and others vs. State of Punjab and others (Annexure P-5), be stayed.

(iv) Further prayer that respondent no.6 be directed to take action against respondent no.7 and 8 on the representation dated 20.05.2021 (P-3) of the petitioner and get the matter with regard to huge bungling and misappropriation of panchayat funds being committed by respondent no.7 and 8 investigated from some senior official."

The Civil Hospital, at Jhunir, Tehsil and District Mansa, has been constructed in order to cater to the requirements of the residents of 40 villages. The Gram Panchayat is alleged to have constructed and leased out some shops near the Civil Hospital, Jhunir. The petitioners allege that the shops have been given on lease without following the proper procedure.

Keeping in view the facts of the case, the petitioners are relegated to the remedy before the Director, who as per the Punjab Panchayati Raj Act 1994, is required to supervise and regulate the works of the Gram Panchayat.

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

The learned counsel representing the petitioners contends that

Department of Rural Development and Panchayats, Punjab, however, no action has been taken.

In essence, the petitioners claim that the Gram Panchayat should be restrained from constructing shops over the panchayat land which adjoins the Civil Hospital, Jhunir. The petitioners are required to prove the purpose for which the aforesaid parcel of land was reserved in the consolidation of holdings. They are also required to prove if there has been any decision with regard to the change of land use in view of the subsequent development.

Keeping in view the aforesaid facts, in the considered opinion of this Court, the petitioners, if so advised, may avail an alternative remedy, as it will not be appropriate to decide the controversy in a writ petition.

Disposed of accordingly.

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

December 03, 2021

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**(ANIL KSHETARPAL)
JUDGE**

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