

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

132

CWP-1983-2022

Date of decision: 07.02.2022

GRAM PANCHAYAT AKBARPUR KHUDAL

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: **Mr. P.S.Khurana, Advocate, for the petitioner.**
 Mr. Ayush Sarna, AAG, Punjab.
 Mr. Harinder Sharma, Advocate, and
 Mr. Sartaj Singh Thakur, for the caveator/respondent no.4.

ANIL KSHETARPAL, J (Oral)

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

The petitioner-Gram Panchayat, Akbarpur Khudal, Tehsil Budhlada, District Mansa, prays for issuance of a writ in the nature of certiorari to quash the order dated 31.12.2021, passed by the Director-cum-Secretary, Department of Rural Development and Panchayat, Punjab, pursuant to the directions of the High Court in Civil Writ Petition No.18419 of 2021.

Some facts are required to be noticed.

An FIR was registered against respondent no.4-Gurjant Singh son of Sh. Ganda Singh. In an anticipatory bail application, on the directions of the Hon'ble Supreme Court, respondent no.4 deposited the alleged embezzled amount of Rs.13,43,000/- which was a condition precedent for the grant of anticipatory bail. The police after investigation, failed to find any material against respondent no.4, resulting in filing an application for permission to cancel the said FIR. The concerned Magistrate

granted the permission to cancel the FIR. Respondent No.4 applied for refund of the amount of Rs.13,43,000/- and the application has been allowed by the Director, Rural Development and Panchayats, Punjab, by way of an impugned award.

This Bench has heard the learned counsels for the parties at length and with their able assistance perused the paper book of the case.

The learned counsel representing the petitioner contends that the police submitted the cancellation report only on the ground that respondent no.4 has already deposited the amount. He further submits that the Director has no jurisdiction to order refund of the amount and respondent no.4, if so advised, may file a civil suit for recovery of the said amount.

Per contra, Sh. Harinder Sharma, Advocate, enters appearance for respondent no.4 and submits that the amount has already been credited in his account.

On a Court question, the learned counsel representing the petitioner admits that there is no order passed by a competent authority assessing the liability of respondent no.4. Moreover, the petitioner, if so advised, has a remedy of challenging the order passed by the concerned Magistrate permitting the cancellation of the FIR. As of now, the order permitting cancellation of the FIR is in operation and the same has not been set aside by any competent Court.

Since, neither there is any order passed by the competent authority assessing the liability of respondent no.4, nor any criminal proceedings are pending against him, therefore, the Director, on the directions of the High Court, has correctly ordered the refund of the said amount.

With these observations, the writ petition is disposed of with liberty to the petitioner to avail the alternative remedy.

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

February 07, 2022
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(ANIL KSHETARPAL)
JUDGE

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