

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

Sr. No.146

**CWP-10642-2022 (O&M)
Date of decision : 18.05.2022**

Amrinderpal Singh

..... Petitioner

VERSUS

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Rajesh Bhatheja, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

The petitioner is the Sarpanch of village Saidoke, Tehsil Nihal Singh Wala, District Moga. The Panchayat of the said village comprises 01 Sarpanch and 11 Panches. Out of 11 Panches, a total of 06 Panches were earlier supporting the Sarpanch and 05 Panches were in opposition. After the recent change of Government in the State of Punjab, one of the Panches aligned with the Sarpanch, namely, Smt. Sukhpreet Kaur shifted allegiance in favour of the opposing 05 Panches and thus, a total of 06 Panches comprised the opposing camp. They were allegedly not permitting the Gram Panchayat to function as they were not attending the meetings regularly. Even, in the meetings attended by them, they opposed the resolution proposed to be passed. Thus, the petitioner submitted a complaint dated 04.05.2022 (Annexure P-4) before the Director, Rural Development & Panchayat Department for taking appropriate action against the 06 Panches in the opposing camp, but nothing was done. Instead, vide order dated 12.05.2022, an Administrator was appointed and thus, the present writ petition has been filed.

Learned counsel for the petitioner has argued that Section 200 of the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as the Act) has been violated. Sub-section 1 of Section 200 of the Act stipulates that a period must be fixed for the performance of a duty by the Gram Panchayat and if, the duty is not performed within the period so fixed, an Administrator may be appointed for performing duty. No such period was fixed nor opportunity was granted to perform the duty. It has further been submitted that an Administrator can only be appointed, if, the Sarpanch has incurred any disqualification. This is not even the case of the State. The six Panches in the opposing camp are not cooperating with the Sarpanch and are hindering the functioning of the Gram Panchayat and thus, suitable action should have been taken against them based upon the complaint dated 04.05.2022 rather than appointing an Administrator. Thus, the order dated 12.05.2022 appointing an Administrator deserves to be quashed. Reliance has been placed upon order dated 26.11.2015 passed by a Division Bench of this Court in LPA-366-2015 titled as Parkash Kaur Vs. State of Punjab and others, a Division Bench judgment in Hakim Singh Sarpanch Vs. State of Punjab, 1994 (2) PLR 141, Jaspal Singh Panch and others Vs. State of Punjab and others, 2009 (4) RCR (Civil) 777 and order dated 27.06.2011 passed in CWP-11160-2011 titled as Bhurpur Singh Vs. State of Punjab and others.

Chapter VIII of the Act is regarding control and supervision of a Gram Panchayat. Section 200 is part of this chapter and provides consequences of default of duties by Panchayats. Where, a Panchayat default in performance of its duties, an Administrator can be appointed by

Before an Administrator is appointed, the Gram Panchayat is required to be notified in writing of a period within which a duty is to be performed and if, it fails to do so, the Administrator can be appointed. Section 200 of the Act is reproduced below for ready reference:-

‘200. Default of duties by the Panchayats. (1) Where a Panchayat makes a default in the performance of any duty other than a judicial function imposed upon it by or under this Act or under any other law for the time being in force,

(i) in the case of a Gram Panchayat, District Development and Panchayat Officer; and

(ii) in the case of a Panchayat Samiti or a Zila Parishad, the Director;

may by an order in writing fix the period, for the performance of the duty and if it is not performed within the period so fixed, he may appoint any other person to perform the duty and direct that the expenses arising from, and incidental to, its performance shall be paid by the Gram Panchayat.

(2) If, in the opinion of the Director a Panchayat has failed or is otherwise incompetent to administer its property, movable or immovable, in the best interests of the Panchayat the Director, after giving an opportunity to the concerned Panchayat of being heard may appoint a person to administer such property for or on behalf of the concerned Panchayat:

Provided that the Director may at any time terminate such arrangement and thereupon the administration of the property shall be resumed by the concerned Panchayat.

(3) A person appointed under sub-section (2) shall exercise all such powers of the concerned Panchayat under this Act, other than the judicial powers conferred upon it, or under any other law for the time being in force, as may be necessary for the management of the property and shall be entitled to receive such remuneration as may be fixed by the Director.

(4) The income from the management of the property referred to in sub-section (2) shall be credited to the fund of the concerned Panchayat and all expenses arising from and incidental to the administration of such property, including the remuneration payable to the person appointed under sub-section (2), shall be met out of the concerned Panchayat Fund.

(5) If the expenses referred to in sub-section (1) are not paid-

(i) In the case of a Gram Panchayat the District Development and Panchayat Officer, and

(ii) In the case of a Panchayat Samiti or a Zila Parishad, the Director;

may make an order directing the person having custody of the fund of the Panchayat concerned, to make the payment in whole or in part from such fund and if such a person does not comply with the order, recover the amount from the fund of the Panchayat as arrears of land revenue.'

A perusal of the impugned order shows that the Block Development & Panchayat Officer had called a meeting of the Panchayat on 01.04.2022. In the said meeting, the Panchayat Secretary and another official had submitted a written report regarding the funds available for carrying out specific works and that the same were not being utilized. Thus, vide communication dated 20.04.2022, 15 days period was granted to the Gram Panchayat to start the said development works and send a report to the office concerned. However, even after 15 days, no report was presented, even though, meetings were held on 21.04.2022 and 29.04.2022. Thereafter, vide communication dated 06.05.2022, the Gram Panchayat was directed to convene a meeting on 12.05.2022 and even in the said meeting, a resolution for carrying out the specific works could not be passed. Thus, the argument that adequate period was not provided to the Panchayat for carrying out specific works is mis-conceived and baseless. It is, accordingly, rejected.

The argument that an Administrator can only be appointed, if, the Sarpanch has incurred a disqualification is equally mis-conceived. Section 200 (1) of the Act does not lay down any such stipulation for appointment of Administrator.

Non-cooperation of Panches of the opposing camp cannot be relied upon to oppose an order of appointment of an Administrator. In any democratically elected body, there are bound to be persons of opposing views. Resolutions by such a democratically elected body can be passed only on the basis of a majority and if, the body is unable to pass a resolution on account of a dead-lock, Section 200 (1) of the Act would get attracted as the Panchayat would have failed to perform a duty which it was bound to perform. Thus, this argument also deserves to fail.

Judgment passed by a Division Bench of this Court in Hakim Singh Sarpanch (supra) is not applicable as it has been passed under the provisions of the Punjab Gram Panchayat Act, 1952 which have not been shown to be *pari materia* with Section 200 of the Act. The judgment in Jaspal Singh Panch (supra) is also not applicable because adequate opportunity has been provided to the Panchayat for performance of duty. For the same reason, the judgment in Bhurpur Singh (supra) is also not applicable.

For the aforementioned reasons, the writ petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

18.05.2022

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No