

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-20796-2021

Date of Decision: 31.03.2022

Gurbhej Singh @ Gurjant Singh

....Petitioner

VS

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. ADS Jattana, Advocate
for the petitioner

Mr. Arun Kaundal, DAG Punjab

Mr. Vivek Chauhan, Advocate
for respondents No. 10 to 14

SUDHIR MITTAL, J.

Vide order dated 10.03.2022 judgment was reserved and learned counsel for the petitioner was directed to submit written arguments. The same has not been done till today and, thus, judgment is being passed.

2. The prayer made in this writ petition is as under:-

“I. For the issuance of writ in the nature of certiorari and thereby for setting aside of the order dated : 23.09.2021 Annexure P-9, whereby despite a functioning gram panchayat, the petitioner is not being allowed to perform his functions by the respondent No. 3 & 4 on the asking of the respondent No. 9, and despite the passing of the resolution dated 08.09.2021, Annexure P-4, upon receiving the notice dated : 24.08.2021, Annexure P-3, issued by the respondent No. 4 and reply by way of the legal notice dated 11.09.2021 Annexure P-7, again informing the respondent No. 2 to 4 about the earlier order dated 27.01.2020 Annexure P-1 passed by this Hon'ble Court, as the impugned order is erroneous, perverse having been passed for political considerations, malafide and vested reasons the respondent

No. 5 has been appointed as the Administrator under Section 200 of the Punjab Panchayati Raj Act, 1994;

II. For passing of the appropriate writ, order or direction and thereby ordering the respondent No. 1 to issue appropriate directions, as earlier issued on dated 25.04.2012 Annexure P-10, so that there is no violation of the mandate of law as well as that of Article 243 E of the Constitution of India and thereby to remove road blocks created by the panchayat officials in the working of the gram panchayat whereby deliberately permissions and authorizations are not given to entitle the withdrawal of the amount whereupon thereafter, the issuance of manipulated notices for carrying out the development work, as no development work can be carried out without the spending of the grants received under the Finance Commissions/Panchayat Fund which are deposited in the bank account and thereby, the officials create flimsy and false grounds for appointment of Administrator in the most malafide and illegal manner so as to stifle the democracy at the grass roots level and embezzle amounts by appointing their officials as Administrators;

III. Any other order or direction with this Hon'ble Court may deem fit and proper in the peculiar facts and circumstances of the present case;

IV. For permission to file the uncertified/untyped/photocopy of the Annexures;

V. Cost of the petition may kindly be awarded in favour of the petitioner and against the respondents.

It is further prayed that during the pendency of the writ petition, the impugned order dated 23.09.2021, Annexure P-9 may kindly be stayed in the interest of justice.”

3. Thus, primarily the grievance of the petitioner is that appointment of Administrator vide order dated 23.09.2021 is illegal and unjustified and that directions should be issued to the State of Punjab to once again issue instructions as done vide Memo dated 25.04.2012 (Annexure P-10). The second prayer is

sought as the panchayat officials are deliberately stifling the functioning of elected

Panches and are not permitting them to administer the Gram Panchayat.

4. Order of appointment of the Administrator came to be passed after notice dated 24.08.2021 was issued by Block Development and Panchayat Officer (BDPO - respondent No. 4) to the Gram Panchayat that a sum of Rs. 84,79,510/- was lying unutilized in the account of the Gram Panchayat. On account of lack of quorum, meetings have not been held and development works have not been carried out. Thus, seven days time was given to the Gram Panchayat to start functioning and commence work for utilization of funds lying in the account. Thereafter, as per the pleadings in the writ petition, the Gram Panchayat passed a resolution dated 08.09.2021 (Annexure P-4) for utilization of funds for development works. This was followed by a legal notice dated 11.09.2021 (Annexure P-7) whereby Director, Rural Development and Panchayats (respondent No. 2) was requested that he must direct his subordinates to uphold the law and not to conduct their affairs under political pressure which was resulting in violation of order dated 27.01.2020 passed in CWP No. 2090 of 2020. Four Panches submitted representation Annexure P-8 to the District Development and Panchayat Officer (respondent No. 3 – DDPO) that they were ready to carry out development works and are present for the said purpose but other members have not come present and are causing obstruction in the functioning of the Panchayat. Thereafter, the impugned order was passed. The said order states that notice dated 06.09.2021 was issued to the Sarpanch and other Panches to carry out development works and to submit a report regarding commencement of the same by 23.09.2021. On the said date, four Panches came present and got their statements recorded that the Sarpanch was not interested in carrying out development works. The Sarpanch and four other members got their statements recorded that the block of four Panches who had earlier got their statements recorded had remained absent from the meeting of the Gram Panchayat on account of which development works could not

be carried out. Action should be taken against them in accordance with law. Thereafter, it has been recorded that as per the report of the BDPO, funds meant for development purposes remain unutilized and that the Government is demanding monthly utilization certificate. Thus, Administrator has been appointed.

5. It may also be noted that there are a total of nine Panches in the Gram Panchayat, out of which five belong to the opposing group.

6. Section 200 of the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act') is regarding default of duties by the Panchayats. It states that where a Panchayat defaults in performance of its duties other than a judicial function, the BDPO may appoint any other person to perform the duty in case the same is not performed within a period fixed by him. In this case, notice dated 24.08.2021 was admittedly issued followed by notice dated 06.09.2021 (as recorded in the impugned order). Development work has admittedly not been done and, thus, the BDPO was competent to appoint an Administrator. Further, Section 201 of the Act vests revisional jurisdiction with the State Government. The said jurisdiction has not been invoked and the petitioner has directly come to the High Court. Existence of alternative remedy of filing a revision petition is an equally efficacious and speedy remedy and, thus, this writ petition is liable to be dismissed on the ground of existence of alternative remedy also. Resolution dated 08.09.2021 allegedly passed by the Gram Panchayat, copy of which is Annexure P-4 on the record is an unsigned document. It does not contain signature of the other Panches who were allegedly present and, thus, this resolution can not be relied upon.

7. The second prayer does not deserve to be granted as detailed instructions have already been issued vide Memo dated 25.04.2012 (Annexure P-10). No useful purpose would be served by reiterating the same.

in his favour are not being permitted to function on account of political considerations. They belong to the party opposed to the party in power. This allegation can not be accepted as no evidence regarding the same has been furnished. Reference has been made to meetings allegedly held on 03.03.2020, 13.03.2020 and 03.04.2020 but there is nothing on record to indicate that infact such meetings were convened and held. It has also been stated that meetings were held in October 2020, November 2020 and December 2020 but again there is no proof of the same. Thus, oral submissions made by learned counsel for the petitioner cannot be accepted.

9. The writ petition has no merit and is dismissed.

31.03.2022
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No