

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-21082-2021

Date of Decision: 31.03.2022

Paramjeet Kaur

....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

SUDHIR MITTAL, J.

Judgment was reserved in this case on 10.03.2022 and learned counsel for the petitioner was directed to submit written arguments. However, the same has not been done till today and, thus, order is being passed on the basis of the pleadings and submissions made in Court.

2. Elections to various Gram Panchayats were held in December 2018 and the petitioner was elected as Sarpanch. In January 2019, the Gram Panchayat was constituted. The Gram Panchayat has seven Panches and a Sarpanch. According to the petitioner, respondents No. 5 to 8 are not cooperating with the functioning of the Gram Panchayat under the influence of respondent No. 9. Infact, the said respondent has been pressurizing the petitioner to join his political party. On account of the non-cooperative attitude of respondents No. 5 to 8, the development works in the Gram Panchayat area have been adversely affected and, thus, a request dated 18.12.2020 was made to the Block Development and Panchayat Officer to permit the Gram Panchayat to carry out development works.

A similar request was reiterated on 28.12.2020. Despite the same, vide order dated

22.02.2021 a Government official has been appointed for carrying out development works. The said Government official was misutilizing the funds released. Instead of purchasing new material, he was utilizing material purchased earlier and, thus, a complaint dated 22.02.2021 was submitted to the BDPO but no action was taken against the official. Instead, the scope of work was increased by releasing additional grant. On 02.09.2021, Agenda Notice was issued by the petitioner convening a meeting on 10.09.2021 and listing the agenda to be discussed. On 10.09.2021, the meeting was held in the presence of the Sarpanch and three Panches. A resolution was passed to make the passage to the Shamshan Ghat Pakka. Another resolution was passed on 12.09.2021 resolving to make another *rasta* passing through the village 'Pakka'. Yet, the official respondents did not heed the resolutions. According to the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act') the Sarpanch is entitled to cast a casting vote. This legal provision has been ignored by respondents and, thus, a direction is sought to them to permit the Sarpanch to perform her duties.

3. Although details regarding alleged illegal appointment of a Government Officer to carry out development works have been given, the legality or validity of the said appointment is not being considered as no relief in that regard has been sought.

4. The only issue to be examined is whether the resolutions dated 10.09.2021 and 12.09.2021 had to be implemented by the official respondents and non-implementation of the same is an attempt made by the State machinery to interfere with the functioning of a duly elected body.

5. Section 24 of the Act is reproduced for ready reference :-

“24. Quorums and Procedure (1) The majority of Panches for the time being holding office shall form a quorum and if at the time appointed for the meeting, a quorum is not present -

(a) the presiding authority shall wait for thirty minutes, and if

within such period there is no quorum, the presiding authority shall adjourn the meeting to such time on the following day or such future day as he may fix;

(b) similarly, the presiding authority after waiting for thirty minutes adjourn the meeting if, at any time, after it has begun attention is drawn to the want of a quorum and the business which could not be considered at the meeting postponed under clause (a) for want of quorum, shall be brought before and disposed of at the meeting so fixed or at any subsequent adjourned meeting at which there is a quorum.

(2) Save as otherwise provided by or under this Act, at every meeting of the Gram Panchayat, the Sarpanch and in his absence a Panch elected out of the Panches present shall preside for the occasion.

(3) All questions shall, unless otherwise specifically provided, be decided by a majority of votes of the present and voting and the Sarpanch or Panch presiding, as the case may, unless he refrains from voting, shall give his vote before declaring the number of votes for and against a question and in the case of equality of votes, he may give his casting vote.

(4) No member of a gram Panchayat shall vote on, or take part in the discussion of any question coming up for consideration at a meeting of a Gram Panchayat, if the question is one in which apart from its general application to the public, he has any pecuniary interest, and if the person presiding has such an interest, he shall not preside over the meeting when such question comes up for consideration.

(5) If the person presiding is believed by any member present at the meeting to have any such pecuniary interest in any matter under discussion, and if a motion to that be carried, he shall not preside at the meeting during such discussion or vote on or take part in it and in such a case any member other than that member of the Gram Panchayat may be chosen to preside at the meeting during the continuance of such discussion.”

6. Sub Section 1 provides that majority of Panches shall form a quorum

and if quorum is not available, the presiding authority shall wait for thirty minutes

and then adjourn the meeting. A similar action is to be taken if quorum ceases to exist during the course of a meeting.

7. In this case the Gram Panchayat consists of 7 Panches and a Sarpanch and, thus, quorum comprises of 5 Panches including Sarpanch. The quorum was not complete either on 10.09.2021 or on 12.09.2021 as only four Panches were present i.e. the Sarpanch and three Panches. Infact, in resolution dated 12.09.2021 it has been recorded that quorum is not complete. Under the circumstances action had to be taken in accordance with the aforementioned Section 24 of the Act and the same having not been done, the resolutions dated 10.09.2021 and 12.09.2021 can not be termed to be legal. Issue of casting vote would arise only if quorum is complete and, thus, the prayer of the petitioner can not be granted.

7. Reliance upon *Baljinder Kaur vs. Director, Panchayats, Punjab and others, 2015(3) RCR(Civil) 1026* is misplaced as question of quorum has not been considered therein. The judgment is, thus, distinguishable.

8. For the aforementioned reasons, 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