

**(209) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP-4814-2017(O&M)
Date of Decision: 01.12.2022**

Rameshwar Dass and another Petitioner(s)

Versus

State of Haryana and others Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr. Vikram Singh, Advocate and
Mr. Divyam Dhakla, Advocate for the petitioners.

Mr. Amit Aggarwal, DAG, Haryana.

Mr. Sandeep Siwach, Advocate for respondent No.3.

Mr. Sandeep Goyal, Advocate for the applicant
(in CM Nos.11865-66 of 2017).

LISA GILL, J.

Prayer in this writ petition is for directing the respondents to consider the case of the petitioners under Rule 12(4) of the Punjab Village Common Lands (Regulation) Rules, 1964 as applicable to the State of Haryana (hereinafter referred to as 'the 1964 Rules') and further direction to respondent No.3 to not demolish their residential houses.

It is submitted that petitioners are poor persons and have constructed their residential houses on the area of not more than 200 square yards. It is further submitted that petitioners are entitled to invoke Rule 12(4) of the 1964 Rules in respect to their residential houses, which are stated to have been constructed from the time of forefathers of the petitioners. The Gram Panchayat, it is stated, has admittedly even laid streets around the house/houses of the petitioners, thus validating the right of the petitioners.

Status report was filed by the Deputy Commissioner, Karnal in

Court. It is stated therein that physical verification of the spot was conducted by the Block Development and Panchayats Officer, Nissing on 28.08.2019 and as per detailed spot inspection report, 56 persons were found to be illegally encroaching upon the land in question. 13 petitioners were found fit for allotment of plots under Rule 12(4) of the 1964 Rules and the remaining 44 petitioners were not found eligible. Market value of the land encroached upon, was directed to be assessed.

Relevant portion of the status report filed in terms of the order dated 07.01.2019, reads as under:-

“8. That B.D.P.O. Nissing on 28.8.2019 conducted physical verification of the spot and a detailed ‘spot inspection report’ has been prepared wherein the B.D.P.O Nissing has reported that out of all the 56 unauthorized occupants/applicants, six (6) persons are in possession of Gair Mumkin Gada Khad Khasra No.28//2, 20//2, 20//19/1, two (2) persons are in possession of Chahi land Khasra No.50//21, 22, seven(7) persons are in possession of Gair Mumkin Abadi (Lal Dora) Khasra No.59, five(5) persons are in possession of Gair Mumkin Phirni Khasra No.61, two (2) persons are in possession of Gair Mumkin Rasta khasra No.62, fourteen (14) persons are in possession of Gair Mumkin School Khasra No.76, one(1) person is in possession of Gair Mumkin Panchayat Ghar khasra No.60, eight (8) persons are in possession of Gair Mumkin Johar khasra No.74 and ten (10) persons are in possession of Gair Mumkin playground Khasra No.77. It is also report that all the persons are having their houses 25 to 30 years old. Apart from this, all these persons are not having any other land in Abadi Deh/Lal Dora or panchayat land in their possession and they are also not having any other residential house, Bara or other land”. True translated copy of the inspection report is Annexure R-6 for the kind perusal of this Hon’ble Court.

The Gram Panchayat Bir Dhadhari passed a resolution No.2 dated 02/09/2019 while stating therein that the encroachers have constructed their houses over the land in question for more than 50 years ago. On 11.04.2019, the said land in question was got

demarcated and 56 persons were found in illegal encroachment upon the subject land and Gram Panchayat also requested to assess the market value of the land encroached by these 56 encroachers. This fact has also been attested by the B.D.P.O Nissing. True translated copy of resolution datd 02.09.2019 duly attested by B.D.P.O. Nissing is annexed herewith Annexure R-7 for the kind perusal of this Hon’ble Court.

9. xxx xxx xxx xxx xxx xxx
10. xxx xxx xxx xxx xxx xxx

11. That vide letter No.931 dated 12.09.2019, the B.D.P.O. Nissing submitted his report to the deponent vide which 13 applications of applicants/petitioners were found fit for recommendation and remaining applications of 44 applicants/petitioners were not found fit for recommendation. Copy of report of B.D.P.O. Nissing is annexed herewith as **Annexure R-10**.

12. That after considering the above report/recommendation of the B.D.P.O. Nissing and Naib Tehsildar Nighdu and all the documents, the case of all the 56 petitioners has been examined and those who are eligible as per the conditions given under Rule 12(4) of the Rules 1964 have been forwarded to the Director, Development & Panchayats Haryana Chandigarh for approval and rest have been rejected. Copy of letter forwarded to the Director Development & Panchayats Haryana, Chandigarh is annexed as Annexure R-11 for the kind perusal of this Hon’ble Court.”

Thereafter, affidavit dated 20.08.2022 of Director, Development and Panchayats Department Haryana, Chandigarh was filed in compliance of order dated 28.07.2022, whereby it was directed that latest status report with regard to action taken against the persons who have been found to be in illegal possession of the gram panchayat land and the stage of proceedings initiated against the erring persons besides the decision taken by the Director regarding the action taken qua the 13 petitioners eligible, be filed. It is stated in the compliance report dated 20.08.2022, that order dated 09.08.2022 has been passed by the Director, Development and Panchayats Department Haryana, Chandigarh.

As per the said order dated 09.08.2022, the following 13 persons/petitioners have been found to be eligible for consideration under Rule 12(4) of the 1964 Rules.

<u>Sr. No.</u>	<u>Name of the Petitioners</u>
1.	Sh. Phoola Ram son of Hari Singh
2.	Sh. Prithi son of Chet Ram
3.	Sh. Kamal son of Kareshan
4.	Sh. Dheer son of Phool Kumar
5.	Sh. Mahender son of Prithi
6.	Sh. Laxman son of Dharma
7.	Sh. Premo Devi wife of Babu Ram
8.	Sh. Preetam son of Shiv Lal
9.	Sh. Sharwan Kumar son of Savroop Chand
10.	Sh. Purushotam son of Mainpal
11.	Sh. Sher Singh son of Rati Ram
12.	Sh. Rishi Pal son of Babu Ram
13.	Sh. Dharma son of Ram Savroop

It is further observed in the order dated 09.08.2022 that:-

“From the perusal of report of Deputy Commissioner, Karnal, prima facie, it reveals that the cases of the 13 above named petitioners can be considered as per provision under Rule 12 (4) of the Punjab Village Common lands (Regulations) Rules, 1964 by the Government. However, the competent authority to accord approval to Gram Panchayat is the council of Ministers and the following documents are required for consideration by the council of Ministers:- (i) Resolution of Gram Panchayat passed with $\frac{3}{4}$ of majority along with detail of khasra number, area of proposed land. (ii) Resolution passed by Gram Sabha with majority of $\frac{1}{10}^{\text{th}}$ of Gram Sabha members or 300 members whichever is less.(iii) Reasonability Certificate by BDPO, DDPO and DRO. (iv) Present market value of the proposed land. The above said documents have not been found to be received alongwith the proposal. Therefore, Deputy Commissioner, Karnal has been directed to send these

documents required for consideration for council of Minister. It may take a period of about 3 months in getting all these documents.”

Learned counsel for the State informs that final decision in this regard has not yet been taken and needful shall be done in the near future.

Keeping in view the facts and circumstances as above, we find no ground for continuance of the present proceedings. This writ petition is disposed of with a direction to the competent authority to take a final decision regarding the 13 persons found eligible for consideration under Rule 12(4) of the 1964 Rules within a period of three (03) months from receipt of certified copy of this order and necessary action be taken qua the ineligible persons in accordance with law.

Needless to say, the petitioners found ineligible shall be at liberty to challenge the order dated 09.08.2022, if so advised, in accordance with law.

All pending applications are disposed of accordingly.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

01.12.2022

Anjal

Whether speaking/reasoned: Yes/No

Whether reportable: Yes