

CWP-25651-2022

Date of Decision: 11.11.2022

Satpal Singh

....Petitioner

VS

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Raj Kumar Garg, Advocate
for the petitioner

SUDHIR MITTAL, J. (Oral)

The petitioner remained Sarpanch from the year 2013 to 2018. A complaint of embezzlement was made against him by respondent No. 6 on 07.05.2021 whereupon the Block Development and Panchayat Officer was directed to conduct an enquiry. Enquiry report has been submitted vide communication dated 28.07.2022 wherein it has been found that the complaint is not well founded, however, a recommendation has been given to carry out physical verification. Consequently physical verification has been directed by the Sub Divisional Magistrate, Samana vide order dated 25.08.2022.

Learned counsel for the petitioner has relied upon Section 216(4) of the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act') to challenge the enquiry in progress. His argument is that no enquiry can be conducted into allegations of embezzlement after two years of demitting office or four years of occurrence of the loss, whichever is later. On this ground, the enquiry is sought to be quashed.

Section 216(4) of the Act is reproduced below:-

216(4) *Notwithstanding anything contained in this Section no person shall be called upon to explain why he should not be required*

to make good any loss, after the expiry of fours years from the occurrence of the loss, waste or misapplication or after the expiry of two years from his ceasing to be a member, whichever is later.”

A perusal thereof shows that no person can be asked to explain why he should not be required to make good any loss, after the expiry of the period prescribed. The language is clear and unambiguous and conveys only one meaning which is that a Panch/Sarpanch cannot be asked to refund the embezzled amount after a period mentioned in the sub-section. An enquiry is not barred. At this stage, only an enquiry is in progress and this can not be short circuited.

The writ petition has no merit and is dismissed.

11.11.2022
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(SUDHIR MITTAL)
JUDGE

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