

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-11880-2023

Date of decision : 29.05.2023

Irshad Khan and others

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHLPresent: Mr.Mohammad Arshad, Advocate
for the petitioners.Ms. Rajni Gupta, Addl.A.G. Haryana
for the respondents.**VIKAS BAHL, J.(ORAL)**

1. This is a civil writ petition under Articles 226/227 of the Constitution of India for issuance of a writ, order or direction in the nature of mandamus directing respondents no.2 and 3 to declare both the meetings dated 01.03.2023 and 07.04.2023 and the proceedings taken in pursuance of the said meetings of the Panchayat Samiti as illegal, null and void.

2. The main plea raised by the learned counsel for the petitioners in the present case is that respondent no.6 (Block Development and Panchayat Officer), who is the Chief Executive Officer was not present in the said meetings and thus, the said meetings deserve to be set aside.

3. A perusal of the writ petition would show that the minutes of the meetings or any resolution passed in the said meetings or proceedings of the said meeting have not been annexed with the present petition. A perusal of Section 72(1) and (3) of the Haryana Panchayati Raj Act, 1994, which has been relied upon by the petitioners in para 11 of the writ petition (page 17 of the paper book), would show that it is open to any person to obtain a

copy of the resolution passed by the Panchayat Samiti on payment of such fees as may be prescribed and even inspection of minutes of the proceedings by any member of the concerned Panchayat Samiti is open at all reasonable times. It is not the case of the petitioners that any such application for obtaining copy of the said resolutions had been moved and that the same has not been issued to the petitioners. It is not even the case of the petitioners that they had tried to inspect the minutes of the meetings and that they were not permitted to do so. Section 72(1) and (3) are reproduced hereinbelow:-

“72. Records and publication of proceedings.-

(1) Minutes of the proceedings at each meeting of a Panchayat Samiti, shall be drawn up and recorded in a book to be kept for the purpose and shall be signed by the authority presiding at the meeting or of the next ensuing meeting and shall be published in such manner as the Panchayat Samiti, by bye-law, direct and shall, at all reasonable time, be open for inspection by any Member of the concerned Panchayat Samiti.

Xxx xxx

(3) Any person may obtain a copy of resolution passed by the Panchayat Samiti on payment of such fees as may be prescribed.”

In the absence of the minutes of the meeting / resolution / proceedings of the meeting having been placed on record, it is not possible to appreciate the argument raised by learned counsel for the petitioners to the effect that respondent no.6 was not present in the said meetings. A perusal of paragraph 2 of the writ petition would show that the documents Annexures P-2 and P-4 have been referred to as the Meeting dated 01.03.2023 and 07.04.2023. The said documents Annexure P-2 and P-4 are notices issued by the Block Development and Panchayat Officer (respondent no.6) to the Chairman, Vice Chairman and all the members of Panchayat Samiti and are dated 14.02.2023 and 31.03.2023 respectively for

neither the minutes of the meetings nor the resolutions which have been passed in the said meetings. Moreover, both the said notices have been issued by the Block Development and Panchayat Officer (respondent no.6) which is in consonance of law. It would be relevant to note that the petitioners had earlier also filed a writ petition in which the following order was passed:-

- “1. This writ petition has been filed under Articles 226/227 of the Constitution of India for the issuance of an appropriate writ, order or direction in the nature of mandamus directing the respondents No.2 to 4 to declare both the meetings dated 14.02.2023 and 31.03.2023 (Annexures P-2 and P-4) of Panchayat Samiti as illegal.*
- 2. A perusal of meetings (Annexurs P-2 and P-4) would show that the same are notices by virtue of which meetings were to be held.*
- 3. Learned counsel for the petitioners has prayed that the petitioners be permitted to withdraw the present writ petition with liberty to file a fresh petition after making appropriate prayer and after giving full and better particulars.*
- 3. In view of the above statement of learned counsel for the petitioners, the present writ petition is dismissed as withdrawn, with the aforesaid liberty. May 08, 2023”*

In the previous writ petition, it was stated that the meetings dated 14.02.2023 and 31.03.2023 be declared as illegal and when confronted with the fact that the same were not the minutes of the meetings and were notices for calling the said meetings, learned counsel for the petitioners had sought to withdraw the writ petition with liberty to file a fresh petition after making appropriate prayers and after giving full and better particulars. Even in the present writ petition neither minutes of meeting dated 01.03.2023 and 07.04.2023 have been annexed nor the resolutions passed in the same have been annexed in spite of the fact that under Section 72(3), it is the right of every person to obtain a copy of the resolution passed by the Panchayat Samiti on payment of prescribed fees.

In the absence of the said documents having been placed on record, it cannot be established that respondent no.6 was not present in the said meetings. It cannot also be ascertained as to whether the Chairman was present in the said meeting or not.

4. Moreover, from a perusal of the provisions which have been reproduced in paragraph 11 of the writ petition, it cannot be inferred that the presence of respondent no.6 is mandatory in the said meeting and that the meeting is required to be set aside solely on account of his absence. The provisions of Section 69 of the Haryana Panchyati Raj Act 1994, which have been referred to in paragraph 11 of the writ petition, would show that the **Chairman or in his absence, the Executive Officer may**, whenever he thinks fit and shall on requisition made in writing by not less than one-third of the total members of the Panchayat Samiti, convene a special meeting within two weeks from the receipt of the written requisition. A perusal of Annexures P-2 and P-4 would show that notices for convening the meeting had been issued by the Block Development and Panchayat Officer (respondent no.6). The question as to whether the Chairman or the Executive Officer were present in the meeting or not cannot be considered in the absence of the minutes of meeting or the resolution passed therein and the said minutes of meeting cannot be declared to be null and void without the same having been placed on record for perusal of this Court. Accordingly, the writ petition is dismissed.

(VIKAS BAHL)
JUDGE

May 29, 2023
Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No