

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

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CWP-16531-2020 (O&amp;M)

Date of Decision: 23.03.2023

Gram Panchayat Salempur

..... Petitioner

Versus

State of Haryana and others

..... Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR  
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Maninder Singh Saini, Advocate  
for the petitioner.

Mr. P.P. Chahar, D.A.G. Haryana.

Mr. Aman Bahri, Advocate  
for respondents No. 3, 6 & 7.

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**SURESHWAR THAKUR, J.(ORAL)**

1. The Gram Panchayat, Salempur, has instituted the instant writ petition. The prayer made in the instant writ petition, is for, quashing of letters of 21.05.2020 and of 01.09.2020 (Annexure P-4 & P-5 respectively). Annexure P-4 embodies a communication made by the Assistant Engineer, Civil Works/ Division, HVPNL, Yamuna Nagar, arrayed as respondents No.6 & 7, to the B.D.O. Ladwa, District Kurukshetra, with a request, that mutation be attested in the name of Electricity Department, in respect of the petitions lands, as became, carried in a resolution of the Panchayat concerned. The said resolution is enclosed as Annexure P-1. Annexure P-5 is an intimation made by the Block Development and Panchayat Officer, Kurukshetra to the Sarpanch of the petitioner - Gram Panchayat, with

respect to the request for attestation of mutation in respect of petition lands, in pursuance to a resolution of the Panchayat concerned, rather in the name of Electricity Department.

2. Learned counsel for the petitioner, has argued, that the impugned Annexures, causes financial loss to the Gram Panchayat concerned, as no compensation has been yet determined in accordance with law, nor when otherwise only through the execution of a registered deed of conveyance deed, the apposite sale consideration, rather would become utilized for the benefit of the Panchayat concerned, whereas, the resolution comprised in Annexure P-1, if becomes enforced, would result in a gratuitous donation of the petition lands being made rather in favour of the co-respondents No. 6 & 7. Therefore, he argues that resolution carried in Annexure P-1 is expropriatory and that the same be not enforced.

3. However, the Panchayat concerned has not yet revoked, the resolution comprised in Annexure P-1. Moreover, it is clear from a reading, of the reply furnished to the writ petition by co-respondents No. 6 & 7, that the said resolution, contents whereof are being extracted hereinafter, rather has been completely complied with, at the instance of co-respondents No. 6 & 7, inasmuch as, in pursuance thereof, the villagers named therein, have been granted employment, besides in compliance with the other conditions, set forth therein, the villagers concerned have been provided 24 hours electricity.

*“That in reply to in contents of Para No.5, it is submitted that respondent No.3 has complied with the terms & conditions of the resolution (Annexure P-1) and gave employment to the villagers who applied for it and did not refuse employment and also installed the sub station which became operational in the*

*year 2008 and since then all the inhabitants of the village are reaping the benefit of electricity from the said sub-station. It is incorrect and denied that the answering respondent failed to comply with the terms and conditions of resolution dated 24.08.2004 (Annexure P-1).*

4. Resultantly, in the face of the resolution Annexure P-1 remaining unrevoked. Moreover conspicuously when all the conditions embodied therein, become completely complied with, at the instance of co-respondents No. 6 & 7. Therefore, at this stage, it is grossly impermissible for the Gram Panchayat concerned, to ask yet that the mutations of the petition lands be not attested in favour of co-respondents No. 6 & 7. The reason, being that since Annexure P-1 has been acted upon, therefore, there is a complete estoppel working against the non-galvanisings into action of Annexure P-1.

5. It is also important to refer here, that co-respondents No. 6 & 7, is / are but an agency, which is completely owned and controlled by the Government of Haryana. Therefore, but, within the ambit of Sub-Section 3 of 5A of the Punjab Village Common Lands (Regulation) Act, 1961 (in short "the Act"), it is an agency of the State Government. Thus the gift of the petition lands was amenable to be made in favour of respondents No. 6 & 7. However, the impediment against the relevant mutation being attested hence for giving effect to an unrescinded the gift of the petition lands (Annexure P-1) to co-respondents No. 6 & 7, is that, the State Government has not yet in terms of the relevant provisions rather granted approval to Annexure P-1.

6. **ANALYSIS OF PROVISIONS OF SECTION 5A(3)**

Be that as it may, since Section 5A(3) of the Act provisions whereof

become extracted hereinafter, and, which became inserted through an amending Act No. 10 of 2007, but in the year 2017, does assign the relevant empowerment to the State Government. A reading of the here-in-after extracted relevant Section 5A(3) of the Act discloses, that an able empowerment has been conferred, upon, the approving authority, to grant approval, to a resolution of the Gram Panchayat concerned, but subject to its being made on or before 04.04.2007. Therefore, if Annexure P-1 is made prior to 2007, and, yet remains un-approved by the Government, thus, it can be, in terms of above signification imparted to Section 5A(3) of the Act, come to be yet approved by Government of Haryana.

*“ The land in shamilat deh gifted to a department, Board or any agency of the State Government by the panchayat by passing a resolution and without prior approval of the State Government before the 4<sup>th</sup> April, 2007 shall be regularized by the panchayat by forwarding the said resolution to the State Government for obtaining approval. The State Government may grant approval to such resolution.”*

7. In consequence, when for reasons Annexure P-1 (supra), is enforceable but with the impediment (supra), therefore, this Court directs the Government of Haryana, to in accordance with Section 5A(3) of the Act grant approval to the resolution of the Gram Panchayat, as, embodied in Annexure P-1.

8. The learned counsel has yet insisted in making an argument before this Court, that compensation is yet to be assessed in favour of the Gram Panchayat. The above argument is again rejected, as it works against the principle of approbation and reprobation, inasmuch as, once the Panchayat, concerned has permitted but in the above stated terms, the

actionings upon by co-respondents No. 6 & 7, of the Panchayat resolution (supra). Therefore, the Panchayat is estopped from reprobating from Annexure P-1, which is, but, an donation of the petition lands, to the co-respondents No. 6 & 7, who as above stated, is an instrumentality or an agency of the State of Haryana. Thus is amenable to become a valid recipient of the relevant statutory provisions. Moreover, since the resolution of the Gram Panchayat, has also been permitted to be acted upon by the Gram Panchayat, especially as revealed by the revenue documents which have been placed on record, wherein, speakings occur qua a power house becoming erected upon the petitions land. Therefore, the institution of the instant writ petition before this Court, in the year 2020, hence much belatedly from the acted upon resolution of the year 2004, as enclosed Annexure P-7, hence begets a sequel qua the instant writ petition being a gross abuse of the process of Court, given the same being hit by vices of gross delays and laches. In consequence, this Court finds no merit in the writ petition, accordingly the same is dismissed.

9. All pending applications disposed of accordingly.

(SURESHWAR THAKUR)  
JUDGE

(KULDEEP TIWARI)  
JUDGE

**23.03.2023**

Satyawan

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No