

**248 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-32777-2019

Decided on 21.11.2023

Joginder Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.H.S. Saini, Advocate, for the petitioner.

Mr. Arun William, Assistant Advocate General, Punjab.

Mrs. Raman Rekhi, Advocate, for respondent No.4.

Mr. Vipin Mahajan, Advocate, for respondent No.5.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for issuance of direction to respondents No.1 to 3 to conduct the vigilance enquiry into the matter from the Vigilance Department, Punjab and initiate criminal action against guilty persons/respondents No.4 to 6 after getting registration of FIR under relevant provisions of law for embezzling the huge funds to the tune of Rs.26,24,000/- of Gram Panchayat of village Ali Nangal and also initiate the appropriate legal action against the guilty persons/respondents No.4 to 6 for recovering the embezzled amount of Panchayat Funds, in accordance with law, apart from taking the disciplinary action against the Government officials to its logical conclusion involved in this big scam.

It has been contended by learned counsel for the petitioner that the petitioner is permanent resident of village Ali Nangal and being member of Gram Sabha, he is aggrieved by the inaction of respondents No.1 to 3 that even after making many complaints/representations by him regarding bungling/

embezzlement of huge funds to the tune of Rs.26,24,000/- of the Gram Panchayat of the village, no action has been taken by the respondents. He has submitted that the land of Gram Panchayat was auctioned in the year 2014-15 for Rs.13,12,000/- for a period of one year, however, respondent No.6-Balwant Singh (Sarpanch) in connivance with the then BDPO, Dera Baba Nanak, Pargat Singh-respondent No.4 and Panchayat Secretary, Sukhdev Singh-respondent No.5, did not enter the auction in the proceedings register of the Gram Panchayat. He submits that thus, respondents No.4 to 6 in connivance with each other embezzled the amount of more than Rs.15 lacs received by auctioning the Panchayat land during the year 2015-16. He submits that besides this respondents No.4 to 6 caused a loss of approximately Rs.11 lacs to the Gram Panchayat by showing the auctioning of the shamlat land of the village for a meagre amount of Rs.2,08,000/-. He has submitted that when this embezzlement committed by respondents No.4 to 6 came to the notice of the villagers and the petitioner, a complaint was made to respondent No.2 for taking appropriate action against respondents No.4 to 6 and enquiry was marked by respondent No.2 to District Development and Panchayat Officer vide letter dated 30.06.2017. He further submits that vide enquiry report dated 04.09.2017, DDPO found that respondents No.6 in connivance with respondents No.4 and 5 has embezzled amount of Rs.26,24,000/- and he recommended respondent No.2 for taking appropriate departmental action against respondents No.4 to 6. He submits that despite findings in the enquiry, no action has been taken by the respondent-authorities against respondents No.4 to 6. Hence, he has submitted that respondents-authorities are hand in gloves with respondents No.4 to 6 and thus, they be directed to conduct

vigilance enquiry against respondents No.4 to 6 by registering an FIR for embezzling a huge funds.

This Court issued notice to the State and reply has been filed by way of an affidavit of Jagdeep Singh, Block Development and Panchayat Officer, Dera Baba Nanak, District Gurdaspur.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has submitted that on the complaint filed, enquiry report dated 04.09.2017 was submitted by the DDPO, wherein, it was concluded that respondent No.6-Ex Sarpanch in connivance with respondent No.5 committed embezzlement of Panchayat funds amounting to Rs.26,24,000/-. He has submitted that on the basis of enquiry, the Department of Rural and Panchayats, Punjab was competent to enquire into the allegations made against Panch/Sarpanch and the vigilance enquiry is not required for the same. It is submitted that on the receipt of the enquiry conducted, respondents No.4 and 5 were suspended from their posts on 30.05.2019 and thereafter, both respondents No.4 and 5 were charge-sheeted vide letter dated 27.06.2019 and reply was sought from both of them. He submits that after receiving reply, respondent No.4 was reinstated vide letter dated 28.06.2019. He has further submitted that after enquiry, respondent No.6 Balwant Singh (ex-Sarpanch) was found innocent, however, respondents No.4 and 5 being Government employees were found to have fully aware of the Government instructions. He submits that thus, in pursuance to the complaint filed, action has already been initiated in accordance with law and from the reply filed, it is evident that respondents No.4 and 5 have already been charge-sheeted and legal action has already been initiated on the allegations made against them. He submits that in

view of the submissions made above, no further cause of action survives with the petitioner.

After hearing learned counsel for the parties and perusing the record, it is apparent that on the complaint filed, enquiry report dated 04.09.2017 was submitted by the DDPO. Thereafter, departmental action was initiated against respondents No.4 and 5, however, respondent No.6 after examining the enquiry report was not found to have been involved. As the departmental action has already been initiated against respondents No.4 and 5, thus, the grievance raised by the petitioner has already been redressed, thus, qua the same, the present petition is rendered infructuous and is disposed of as such. However, the petitioner is at liberty to pursue his remedy in case any cause of action survives with him.

(RAJESH BHARDWAJ)
JUDGE

21.11.2023
sharmila

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No