

In the High Court of Punjab and Haryana at Chandigarh

[104]

(1)

CWP-12164-1995

UTTAM SINGH

..... PETITIONER

VERSUS

ADDL. DIRECTOR, CONSOLIDATION OF HOLDINGS, PUNJAB,

MOHALI & ANOTHER

.....RESPONDENTS

(2)

CWP-15034-1995

GRAM PANCHAYAT CHHOHAR, TEHSIL AND DISTRICT
MANSA.

..... PETITIONER

VERSUS

ADDL. DIRECTOR, CONSOLIDATION, PUNJAB,
SAS NAGAR MOHALI & OTHERS

.....RESPONDENTS

Date of Decision: 12.03.2024

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. M.L. Saini, Advocate
for the petitioner (in CWP-12164-1995).

Mr. Vikas Singh, Advocate
for the petitioner (in CWP-15034-1995).

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. S.S. Salar, Advocate for the respondents (in both cases).

SURESHWAR THAKUR, J. (ORAL)

1. Since both the writ petitions(supra) make a challenge to a
common decision passed by the Additional Director Consolidation, Punjab,
Mohali, respectively enclosed as *Annexure P-3* in *CWP No.12164 of 1995*, and
as *Annexure P-1* in *CWP No.15034 of 1995*, therefore, both the writ petitions

2. The learned counsel for the petitioner-Gram Panchayat in *CWP-15034-1995*, had made the hereinafter submissions before this Court, on 23.11.2023, and, which led this Court to, on the said date make the consequent thereto directions.

3. The said submissions and the consequent thereto orders, as became passed on the said writ petitions, are extracted hereinafter. In terms of the directions being passed upon the respondent concerned, the requisite compliance affidavit has been filed in Court today. The same is taken on record. Order dated 23.11.2023 passed by this Court, reads as follows:-

“The learned counsel appearing for the petitioner-Gram Panchayat in CWP-15034-1995, Mr. Vikas Singh, submits that through the petitioner was arrayed as a party-respondent in the lis concerned, but he submits that no notice was ordered to be served upon the said petitioner, nor obviously the said petitioner became lawfully served. Furthermore, he also submits that obviously there is no order on the file whereby after any purported valid personal service being caused upon the present petitioner, there was no appearance on its behalf, leading to the present petitioner being directed to be proceeded against ex parte.

Therefore, for confirming the above said fact, the learned State counsel is directed to, on an affidavit being filed by a responsible public functionary, thus ensure the occurrence of speaking therein, as to whether the present petitioner i.e. Gram Panchayat, was lawfully served and /or whether after lawful service being caused upon the said petitioner, there was no representation on its behalf on the day fixed in the relevant summons, besides whether there is any order whereby the said petitioner was thus directed to be proceeded against ex parte. Moreover, the said affidavit, shall also reveal that whether any order whereby the said petitioner was ordered to be proceeded against ex parte was strived to be set aside rather through an application being filed.

For the above purpose, list on 4.1.2024.

A photocopy of this order be placed on the file of the connected case.”

4. A perusal of paragraph nos.2 and 3 of the compliance affidavit, which are extracted hereinafter, reveal that though in Misl No.220 of 1995, the

Gram Panchayat concerned, was impleaded as a party, but no notice on the said petition was served upon the Gram Panchayat concerned, and, also no representation on behalf of the Gram Panchayat concerned, thus, was made on the relevant date, besides, no *ex parte* order was passed. Therefore, though there was an imperative duty cast upon the Additional Director Consolidation concerned, to issue a notice, *vis-a-vis*, the relevant petition upon the Gram Panchayat concerned, yet the said solemn duty, rather not becoming adhered to. Resultantly thereby, the Gram Panchayat concerned, has been condemned unheard.

Paragraphs No.2 and 3 of the said compliance report read, as follows:-

“2. That this Hon'ble Court has pleased to pass the order dated 23.11.2023, the same is reproduced here as under:-

“The learned counsel appearing for the petitioner-Gram Panchayat in CWP-15034-1995, Mr. Vikas Singh, submits that through the petitioner was arrayed as a party-respondent in the lis concerned, but he submits that no notice was ordered to be served upon the said petitioner, nor obviously the said petitioner became lawfully served. Furthermore, he also submits that obviously there is no order on the file whereby after any purported valid personal service being caused upon the present petitioner, there was no appearance on its behalf, leading to the present petitioner being directed to be proceeded against ex parte.

Therefore, for confirming the above said fact, the learned State counsel is directed to, on an affidavit being filed by a responsible public functionary, thus ensure the occurrence of speaking therein, as to whether the present petitioner i.e. Gram Panchayat, was lawfully served and /or whether after lawful service being caused upon the said petitioner, there was no representation on its behalf on the day fixed in the relevant summons, besides whether there is any order whereby the said petitioner was thus directed to be proceeded against ex parte. Moreover, the said affidavit, shall also reveal that whether any order whereby the said petitioner was ordered to be proceeded against ex parte was strived to be set aside rather through an application being filed.

For the above purpose, list on 4.1.2024.

A photocopy of this order be placed on the file of the

connected case.”

3.

That in the case titled as Gram Panchayat versus Additional Director Consolidation and others (CWP No.15034 of 1995), Additional Consolidation Officer, Punjab decided the petition filed by the petitioner (Kapur Singh, misl No.220/1995) vide order dated 10.07.1995 by clubbing the another petition filed by Uttam Singh (MislNo.168/1995). In Misl No.168/1995 Gram Panchayat was not impleaded as party.”
5.

In pursuance, since both the Misl No.220 of 1995, and, Misl No.168 of 1995, became decided through a common decision dated 10.07.1995, therefore, the said impugned common order is vitiated, and, as such, is quashed and set aside. In sequel both the misls(*supra*), are remanded to the Director Land Records, Jalandhar (Punjab), with a direction qua after his restoring the petitions(*supra*) to their respective original numbers, to proceed to make fresh speaking decision thereons, but within a period one month from today, and, after hearing all affected persons concerned.
6.

Both the writ petitions stand disposed of accordingly, along with the pending application(s), if any.

(SURESHWAR THAKUR)

JUDGE

(LALIT BATRA)

JUDGE

MARCH 12, 2024

ANJAL

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No