

THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.10198 of 2018
Date of Decision: 02.02.2024

Gram Panchayat Padao, Block Rajpura,
District Patiala through its Sarpanch Petitioner

Versus

State of Punjab and others Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Surjit, Advocate for
Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Arun William, AAG, Punjab.

Mrs. Raman Rekhi, Advocate for
Mr. C. L. Premy, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

Present writ petition has been filed for quashing the impugned order dated 09.08.2017 (Annexure P-3) passed by respondent No.2 whereby the revision petition filed by respondent No.4 has been allowed on the arbitrary grounds without perusing the record as well as without due application of mind thus, rendering the impugned order legally unsustainable. Further prayer has been made that the order dated 19.08.2016 (Annexure P-1) passed by respondent No.3 whereby the application filed by the petitioner regarding the distribution of liabilities/management between the petitioner i.e. new established Gram Panchayat Padoa out of Gram Panchayat Uguna was allowed on the basis of Section 3 of the Punjab Panchayati Raj Act, 1994.

It has been contended by learned counsel for the petitioner that after the partition in 1947, some migrants came to village Chandua and settled there. He submits that thereafter the Gram Panchayat Ugana Padao was separated in 1993 from the Gram Panchayat Chandua. He further submits that thereafter the Gram Panchayat Ugana was further bifurcated and new Gram Panchayat Padao came into being in 1998. He has submitted that the Gram Panchayat Padao i.e. the petitioner, filed an application regarding the distribution/partition of liabilities/management between the Gram Panchayat Ugana and the new Gram Panchayat Padao, which was formed in the year 1998. He has submitted that the apportionment of the assets and liabilities is to be done as per the mandate of Section 3 of the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act'). He submits that the Divisional Deputy Director had rightly passed the order dated 19.08.2016 in favour of the petitioner after considering all the facts in view of the statutory provisions of Section 3 of the Act. He submits that the Gram Panchayat Ugana i.e. respondent No.4 filed the revision petition on 20.09.2016 under Section 215 of the Act before respondent No.2 on the ground that the Gram Panchayat was not given any opportunity of being heard before passing the impugned order and further on the basis of Hadbast numbers of both the Gram Panchayats are different. He has submitted that respondent No.2 without giving any opportunity of hearing to the petitioner has passed the impugned order dated 09.08.2017 which is totally in violation of the principles of natural justice. He submits that this is an admitted fact that neither the petitioner was granted any opportunity for filing reply nor

was heard before passing the order. He has submitted that the impugned order has been passed not only in violation of the principles of natural justice but in violation of Section 3 of the Act. He submits that the *ex parte* impugned order passed being unsustainable in the eyes of law, deserves to be set aside.

Per contra, learned counsel for respondent No.4 has opposed the submissions made by learned counsel for the petitioner. She has drawn the attention of this Court to the reply filed and submits that the revision petition was filed by respondent No.4 under Section 215 of the Act read with Rule 40 of the 2012 Rules before respondent No.1, who directed the Deputy Commissioner, Patiala to decide the case after hearing the grievances of both the parties. She further submits that on hearing both the sides, the revision petition was accepted. She submits that the impugned order suffers from no illegality. However, it has not been controverted that the impugned order has been passed *ex parte* qua the petitioner by the Deputy Commissioner, Patiala.

Learned State counsel though has opposed the submissions made by learned counsel for the petitioner. He has submitted that this petition was filed by the earlier Gram Panchayat and now there is a new Gram Panchayat. He has submitted that the impugned order has been passed in accordance with law. However, it has not been controverted that the impugned order passed is *ex parte* qua the petitioner.

Heard.

On hearing learned counsel for the parties and perusing the record, it is apparent that the revision petition was filed by respondent

No.4 i.e. Gram Panchayat Ugana under Section 215 of the Act read with Rule 40 of 2012 Rules. Though the notice was issued but it is evident from perusal of the impugned order that neither any reply was filed by the petitioner nor it was represented at the time of passing of the order. The learned Deputy Commissioner, Patiala had proceed *ex parte* qua the petitioner. Though learned counsel for respondent No.4 has opposed the submissions made by learned counsel for the petitioner, however, it is not in dispute that the impugned order was passed *ex parte* qua the petitioner and thus, in violation of the principles of natural justice.

The Court at this stage would refrain itself from commenting anything on the merits of the case. However, in view of the facts and circumstances of the case as the impugned order is passed *ex parte* qua the petitioner, the same is hereby set aside. The case is remanded to the Deputy Commissioner, Patiala with a direction to hear both the parties again and pass a speaking order thereafter. In the facts and circumstances, it is further directed to decide the case in accordance with law expeditiously preferably within a period of three months from the date of receipt of copy of this order. Office is directed to send copy of this order to the Deputy Commissioner, Patiala forthwith, who on receipt of the same would issue notice to the parties.

The present petition is disposed of in the above mentioned terms.

02.02.2024

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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No