

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

**CWP-25647-2018 (O&M)
Date of decision : 04.03.2024**

Gram Panchayat Village Akalgarh @ BurjwalaPetitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. S.S. Swaich, Advocate
for the petitioner.

Mr. Navneet Singh, Senior DAG, Punjab.

Mr. V.K. Kaushal, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

CM-2805-CWP-2024

Application is allowed as prayed for.

Reply on behalf of respondent No.4 is taken on record.

Main case

Prayer in the present petition is for quashing the impugned order dated 12.04.2018 (Annexure P-5) passed by learned Financial Commissioner, Government of Punjab, Rural Development and Panchayats Department, Chandigarh (exercising the powers of State Government) in Revision Petition No.86 of 2017 titled as Sarpanch Gram Panchayat Akalgarh @ Burjwala Vs. Director Rural Development and Panchayats Punjab and order dated 12.05.2017 (Annexure P-4) passed by the Director, Rural Development and Panchayats, Punjab in Petition No.31 of 2016 titled as Shamsher Singh Vs. Gram Panchayat Akalgarh @ Burjwala under Section 199 of the Punjab Panchayati Raj Act, 1994 being patently illegal, arbitrary, without jurisdiction, erroneous, perverse and against the provisions of Punjab Panchayati Raj Act, 1994 and the Constitution of

India.

It has been submitted by counsel for the petitioner that the Resolution dated 31.10.2012 was passed by the previous Gram Panchayat of Village Akalgarh @ Burjwala, District Rupnagar regarding misbehaviour of the family members of respondent No.4-Shamsher Singh with the Gram Panchayat. He submits that the Resolution dated 01.02.2016 was passed by Gram Sabha of Village Akalgarh @ Burjwala requesting the authorities for making inquiry at the village level before taking further action on any complaint made by respondent No.4 against the residents of the village as he was disturbing the peace and harmony in the village by making repeated false complaints. The copies of these Resolutions were sent to the Block Development and Panchayat Officer, Ropar, Senior Superintendent of Police, Rupnagar, Sub Divisional Magistrate, Rupnagar and Deputy Commissioner, Rupnagar etc. He submits that respondent No.4 filed a petition assailing the same before learned Director, Rural Development and Panchayat Department, Punjab who vide impugned order dated 12.05.2017 illegally set aside both these resolutions dated 31.10.2012 and 01.02.2016 by exercising his power under Section 199 of the Punjab Panchayati Raj Act, 1994 (for short 'the Act'). He has submitted that respondent No.4 filed a criminal complaint under Section 500, 120-B of IPC against the Sarpanch Harpreet Singh and other Panches for alleged defamation and learned trial Court summoned them. He has further submitted that petitioner-Gram Panchayat assailed the said order passed by the Director dated 12.05.2017 by way of filing the revision petition before the learned Financial Commissioner. However, learned Financial Commissioner has illegally dismissed the revision petition vide his impugned order dated 12.04.2018. He has submitted that learned Director

has failed to appreciate the provisions of Section 199 of the Act and thus, passed the impugned order by cancelling the resolution totally and thus, the same is without jurisdiction. He submits that learned Financial Commissioner has further failed to appreciate the legal provisions and thus, illegally upheld the order passed by the Director. He has submitted that both these Resolutions were passed for maintaining peace and harmony in the Village and respondent No.4 by making repeated false complaints against the residents of the village had created nuisance in the village. He thus, submits that the impugned orders being illegal, arbitrary and without jurisdiction, deserve to be *set aside*.

Learned counsel for respondent No.4 has vehemently opposed the submissions made by counsel for the petitioner and has submitted that the impugned resolutions were passed on account of rivalry in the village. He has submitted that respondent No.4 is retired from Army who is a law abiding citizen and in the exercise of his democratic rights, he filed a complaint for the welfare of the villagers. It is submitted that filing of the complaint on genuine cause would not amount to creating nuisance in the village and thus, the learned Director had rightly invoked his power under Section 199 of the Act and finding the resolution passed to be unsustainable in the eyes of law rightly cancelled the same which was further upheld by the learned Financial Commissioner as well. He submits that the impugned orders passed are totally in accordance with law and suffer from no infirmity. Thus, the petition being devoid of any merits, deserves to be dismissed.

Learned State counsel has also supported the contention of learned counsel for respondent No.4 and has stated that no interference is called for in the orders and as such the petition is liable to be dismissed.

I have heard counsel for the parties and perused the record. It is an admitted fact that respondent No.4 is the resident of the village. The earlier Panchayat had passed the Resolution dated 31.10.2012 for taking legal action against respondent No.4 and his family members for making false complaints. Thereafter, another resolution dated 01.02.2016 was also passed against respondent No.4. Aggrieved by the same, respondent No.4 filed the petition before learned Director for cancelling the said Resolution.

The relevant statutory provisions in the case is Section 199 of the Act which reads as follows:-

“199. Power to cancel or suspend resolutions of Panchayat-(1) The Director may, by order in writing cancel any resolution passed by a Panchayat if, in his opinion, such resolution-
(a) is not legally passed; or
(b) is in excess of abuse of the powers conferred by or under this Act or any other law; or
(c) is contrary to the interests of the public or, likely to cause waste or damage of Samiti Fund or Zila Parishad Fund or of property of a Panchayat Samiti or Zila Parishad; or
(d) on its execution is likely to cause damage to human life, health or safety or is likely to lead to a riot or affray.
(2) The Director shall, before taking action under sub-section (1), give the Panchayat an opportunity for explanation.
(3) If in the opinion of the Deputy Commissioner, immediate action is necessary to suspend a resolution on any of the grounds referred to in Clause (c) of sub-section (1), he may, by order in writing, suspend the resolution and make a report to the Director.
(4) The State Government may, either suo motu or on a representation made by the Panchayat Samiti or the Zila Parishad aggrieved by the order made under sub-section (3) call for the record of the case in which such order was made and pass such order in relation thereto as they may deem fit but the Government shall not pass any order prejudicial to the Panchayat unless it is given an opportunity for explanation.”

Learned Director on hearing both the sides and appreciating the statutory provisions, found the Resolution passed totally motivated by enmity and factionalism to damage the career of respondent No.4. Thus, the impugned Resolutions being violative of the parameters as laid down under Section 199 of the Act were cancelled. The appeal against the said order filed by the petitioner-Gram Panchayat was also dismissed. It is apparent that the Resolutions passed by the Gram Panchayat can be cancelled by the Director by invoking his power under Section 199 of the Act. The only reason for passing the Resolution against respondent No.4 was that he filed some false complaints against the Panchayat and some residents of the Village. The filing of a complaint by any villager against others does not amount to creating nuisance authorizing the Gram Panchayat to take away the democratic rights of any villager. If the same is found to be violative of the parameters of Section 199 of the Act then the Director is well within its jurisdiction to cancel such a motivated resolutions. The resolution passed were found to be motivated due to factionalism in the village. It did not even contain the signatures of the Sarpanch as was contended before the learned Director. Thus, the authorities below have taken a concurrent view in cancelling the Resolutions passed against respondent No.4 by the Gram Panchayat. This Court does not find any infirmity in the orders passed by the authorities below and hence, the petition being devoid of any merits is hereby dismissed.

04.03.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No