

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

CWP-21959-2023

Date of decision : 06.02.2024

Charanjit Singh and another

.....Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Deepak Nayar, Advocate
for the petitioners.

Mr. Arun William, AAG, Punjab.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for setting aside the impugned order dated 14.07.2023 (Annexure P-1) passed by respondent No.2 being illegal, arbitrary and unjustified. Further prayer has been made for staying the operation of impugned order dated 14.07.2023 (Annexure P-1).

It has been contended by counsel for the petitioners that the petitioners filed a complaint before the BDPO, Malerkotla on the ground that Shaminder Singh (Panch) and Baljit Kaur (Sarpanch) in connivance with each other have allowed the cutting of trees in the cremation ground which is under the ownership of the Gram Panchayat. He submits that without seeking necessary approval, the trees standing in the panchayat land, were sold by them and thus, the action should be taken against both of them for illegally cutting the trees. It is submitted that the Sarpanch was also in the illegal possession of the panchayat land. He submits that a detailed inquiry was carried out by learned BDPO, Malerkotla and it was

concluded that the Sarpanch and Panch with the connivance of Panchayat Secretary cut more than 50 trees from cemetery without any requisite approval. It is submitted that the regular inquiry was conducted and the allegations made in the complaint filed by the petitioners were duly proved. However, the Director, Rural Development and Panchayats, Punjab without appreciating the regular inquiry, illegally exonerated both the Panch and Sarpanch vide his order dated 30.11.2022. He submits that petitioners assailed the said order before the learned Financial Commissioner. It is submitted by counsel for the petitioners that the Director, Rural Development and Panchayats, Punjab illegally reinstated both the Sarpanch and the Panch. He submits that learned Financial Commissioner has illegally dismissed the appeal filed by the petitioners solely on the ground that regular inquiry conducted was not produced on record. He submits that no opportunity was granted to the petitioners by learned Financial Commissioner for producing the copy of the regular inquiry. It is submitted that the appeal has been dismissed with the pre-determined mind. He submits that the petitioners were having the copy of regular inquiry but as no opportunity was granted to produce the same hence, the appeal has been dismissed simply on the ground that the copy of the regular inquiry was not placed on record. He submits that the order being totally cryptic, non-speaking and arbitrary does not sustain in the eyes of law and thus, the same deserves to be *set aside*.

Notice of motion.

On asking of the Court, Mr. Arun William, AAG, Punjab accepts notice on behalf of the State and has submitted that the impugned order suffers from no infirmity. He has submitted that on appreciation of

the overall record, the learned Financial Commissioner, finding no merit in the appeal filed by the petitioners has rightly dismissed the appeal. Thus, he submits that the petition being devoid of any merits, deserves to be dismissed.

Heard. On hearing counsel for the parties and perusing the record, it is evident that the petitioners filed a complaint against the Panch and Sarpanch alleging cutting of the trees illegally from the panchayat land and for encroachment on the panchayat land. The preliminary inquiry was conducted and thereafter, the regular inquiry was also conducted in which the allegations made by the petitioners were substantiated. The Director, Rural Development and Panchayats, Punjab vide his order dated 30.11.2022 exonerated both the Sarpanch and Panch by re-instating them to their respective posts. Being aggrieved the petitioners filed the appeal before the learned Financial Commissioner. From perusal of the record, it is apparent that learned Financial Commissioner gave a specific finding that the copy of the regular inquiry was not annexed with the appeal and thus, the appeal was dismissed. There is no dispute regarding the regular inquiry having been carried out. The prime reason for dismissing the appeal is found to be non-filing of the copy of the regular inquiry along with the appeal. On account of the same, the appeal has been dismissed. This Court is not in agreement with impugned order passed by the learned Financial Commissioner. Once the regular inquiry has been carried out, the Court should have granted the opportunity to the petitioners for placing the same on record. However, there is nothing on the record to show that the petitioners were provided any opportunity to place on record the copy of regular inquiry in support

of their case. Thus, the impugned order dated 14.07.2023 (Annexure P-1) being unsustainable in the eyes of law, is hereby *set aside*. Resultantly, the case is remanded back to the learned Financial Commissioner for decision afresh in accordance with law after hearing the parties and providing them due opportunity for placing on record the copy of regular inquiry. It is further directed that the learned Financial Commissioner would decide the appeal expeditiously preferably within three months from the date of receipt of copy of this order. Office is directed to send copy of this order to the respondent No.2 concerned forthwith who on receipt of the same will issue notice for appearance to both the parties.

Disposed of in above terms.

06.02.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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