

120 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-28918-2024 (O/M)
Date of decision : 24.10.2024

Dharam Pal Petitioner(s)

Versus

State of Haryana and others Respondent(s)

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Narender Pal Bhardwaj, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Dharam Pal) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of mandamus for directing the official respondents (except respondents No. 5 and 6) to take appropriate action on the complaints dated 29.08.2024 (Annexure P-1 to Annexure P-5), submitted by the petitioner against respondent No. 8 (Neeraj Goswami) in respect of misappropriation and embezzlement of panchayat funds done by him as Sarpanch, in collusion with respondents No. 5 and 6 during his tenure (2016-2022).

2. In para-3 of the writ petition, the petitioner has alleged the following instances of embezzlement against respondents No. 5, 6 and 8:-

(i) That cattle shed scheme (2016-2022) in the village involved significant embezzlement by the private

respondent, who provided minimal materials to beneficiaries.

(ii) Furthermore, private respondent even got excavated land of Johar comprised in (Khasra No. 269) as well as another land in Khasra No. 282 and embezzled funds by selling the soil.

(iii) Further, private respondent had colluded with the then Block Development and Panchayat Officer/Resp. No. 6 to withdraw funds for BC Chaupal repairs, but no actual work was done.

(iv) Besides this, private respondent was even hand in glove with M/s Mahadev Enterprises, overcharging for blocks when there were local suppliers in the village providing the blocks at comparatively lesser rates, leading to huge embezzlement of Panchayat funds. Therefore, less than half of the development funds received from the government were utilized by private respondent for village development during his tenure, indicating widespread embezzlement. Furthermore, villagers were not consulted about local projects; funds withdrawn for work were often embezzled instead.

(v) Furthermore, construction of a marriage hall involved cutting down a tree from govt. school without permission of education department, with villagers opposing the action. Further private respondent received government funds for cleaning a Johar but failed to do so, embezzling the funds instead.

(vi) That meanwhile, several attempts were made by petitioner to obtain information via RTI which were thwarted by collusion between government employees and the private respondent. Not only this, numerous complaints to officials have gone unaddressed, and the private respondent in collusion with resp. No. 5 and 6

have even threatened villagers with repercussions for speaking out.

Emphasis Placed Upon Following Facts :-

It is also germane to highlight here that private respondent has no source of income, neither does he have any job nor does he have any other business, nonetheless, he has now purchased 5 acres of land in total at different places in the village, which is worth in crores of rupees, which makes it ostensible that he has purchased the said land by embezzling the money of the Panchayat and the government. Before becoming Sarpanch, the private respondent merely had 5 acres of land inherited equally (2.5 acres each) by him and his brother from his father. Thus, it becomes ostensible that private respondent has accumulated disproportionate assets by committing embezzlement and misappropriation of Panchayat funds during his tenure.”

2.1 A perusal of the averments/allegations made in the writ petition as well as in the complaints/representations (Annexure P-1 to P-5) would manifest that they lack material particulars. Only vague and general averments/allegations have been made.

3. The Hon'ble Apex Court in ***Narendra Bahadur Singh and Anr. v. State of U.P. and Ors., AIR 1977 Supreme Court 660***, held that material facts and essential facts should be pleaded in the writ petition.

3.1 It is fairly settled law that roving enquiry is not contemplated in a writ petition by the High Court invoking the jurisdiction under Article 226 of the Constitution of India in the absence of necessary pleadings and materials.

3.2 Further, in ***Ashok Kumar Pandey v. State of W.B. 2004(3) SCC 349*** the Hon'ble Apex Court held that petition seeking to make a

roving enquiry on speculative foundations and premises cannot be entertained.

4. Since the writ petition as well as the representations (Annexure P-1 to P-5) are completely devoid of material particulars and only vague and general allegations have been made therein; I do not find any merit in this writ petition and the same is accordingly dismissed.

5. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

24.10.2024
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No