

2025:PHHC:098957



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

CWP-19182-2025 (O&M)
Date of decision :04.08.2025

GRAM PANCHAYAT ISMAILPUR, TEHSIL
AND DISTRICT AMBALA THROUGH ITS
SARPANCH NAMELY KULWINDER SINGH

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Dr. Malkiat Singh, Advocate
for the petitioner.
[through V.C.]

Ms. Upasana Dhawan, A.A.G., Haryana.

HARSH BUNGER, J. [ORAL]

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari/mandamus* for setting aside the letter dated 10.02.2025 (Annexure P-3); letter dated 18.03.2025 (Annexure P-4) and letter dated 16.04.2025 (Annexure P-5).

2. Briefly, the petitioner-Gram Panchayat claims to be the owner of land, comprised in *Khewat Nos.133/195, 196, Khasra Nos.34//21, 35//24/2, 25/2, 39/13/2, 4/2, 5, 6, 7, 8/1, 13/2, 14/2, 15, 16/1, 17/1, 40//1, 2, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16/1, 17/2, 18, 19, 20, 21/1, 22/2, 23/1, 24/1, 44//2/3, 3/1, 39//12/2, 13/3, 14/1, 16/2, 17/2, 18, 19/1/1, 22/2/2, 23, 24, 25, 40//21/2, 22/1, 44//1, 2/1, 3/3, 9/2, 10/1, 11/1, 45//3/2, 4, 5, 6, 7/1, 8/1, 11.14/2, 15/1, 16/2/1, 19, 20, 21, 22, 25/1/2, 46/15/2, 6/2, 7/1, 13/2, 14, 15,*

16, 17, 18/1, 24, 25, 48//5, 49//1, 2, 3, 8/2, 9/2, 10, situated within the revenue estate of village Ismailpur H.B. No.262, Tehsil and District Ambala as per the Jamabandi for the year 2022-23.

2.1 It is stated that respondent No.8-Forest Division Officer, Ambala issued the above referred impugned letters for getting the above-said land freed from encroachment by stating that the same was a closed area under Sections 4 and 5 of the Punjab Land Preservation Act, 1900 (in short 'PLPA, 1900').

2.2 It is contended by the petitioner-Gram Panchayat that a notification dated 02.09.1977 (Annexure P-6) was issued under the PLPA, 1900; whereby, certain prohibitions were imposed for specific purposes for a period of 15 years from the date of publication of the said notification. It is stated that since the prohibition was only for a period of 15 years, which already stood completed in the year 1992, therefore, as on date, there is no such prohibition and that the petitioner-Gram Panchayat has been leasing out the afore-said land to the villagers. It is also stated that the petitioner-Gram Panchayat has already approached the revenue authorities for seeking correction in the revenue records and another suit for permanent injunction has also been filed by the petitioner-Gram Panchayat, which is also pending. It is, thus, contended that no embargo can be put upon the use of the afore-said land by merely issuance of afore-said impugned letters.

2.3 In the afore-mentioned circumstances, the present writ petition has been filed by the petitioner-Gram Panchayat, before this Court, for the relief, as noticed here-in-above.

3. At this stage, learned State counsel has appeared, in pursuance of the advance copy of petition, having been supplied to him.

3.1 Learned State counsel, while referring to the impugned letters, has submitted that the same have been issued primarily in pursuance of order dated 21.07.2022 passed by Hon'ble the Apex Court in ***Civil Appeal No.10294 of 2013*** titled as ***Narinder Singh and others vs Divesh Bhutani and others***. It is further contended that in case, the petitioner has any grievance then, he has to approach the concerned authorities in terms of the observations made by the Hon'ble Apex Court in ***Narinder Singh's*** case (*supra*).

4. Heard.

5. Evidently, in respect of the land in question, a notification dated 02.09.1977 (Annexure P-6) was issued under the PLPA, 1900.

5.1 In ***Narinder Singh's*** case (*supra*), the Hon'ble Apex Court, after considering the matter, has observed as under :-

46. The material Sections in PLPA are Sections 3 to 7. Firstly, we are dealing with Section 3, which reads thus:

“3. Notification of areas— Whenever it appears to the Provincial Government that it is desirable to provide for the conservation of sub soil water or the prevention of erosion in any area subject to erosion or likely to become liable to erosion, such Government may by notification make a direction accordingly.”

Section 3 enables the State Government to notify an area subject to erosion or likely to become liable to erosion. When it appears to the State Government that it is desirable to provide for the conservation of sub-soil water or the prevention of erosion in any area subject to erosion or likely to become liable to erosion, the State Government may by a notification issue a direction accordingly. By the inclusion of any area in a notification under Section 3, per se, there are no constraints or restrictions imposed on the use of the lands. There is nothing in Section 3 to suggest that the power to issue

notification can be exercised necessarily in respect of forest lands. The lands covered by the notification may also include non-forest lands. However, in respect of the areas notified under Section 3, the State Government can exercise the powers under Section 5A. Section 5A reads thus:

“5-A. Power to require execution of works and taking of measures.— In respect of areas notified under section 3 generally or the whole or any part of any such area, the Provincial Government may, by general or special order, direct—

- (a) the levelling, terracing, drainage and embanking of fields;*
- (b) the construction of earth-works in fields and ravines;*
- (c) the provision of drains for storm water;*
- (d) the protection of land against the action of wind or water;*
- (e) the training of streams; and*
- (f) the execution of such other works and the carrying out of such other measures as may, in the opinion of the Provincial Government, be necessary for carrying out the purposes of this Act.”*

Before the amendment made in the year 1926, Sections 4 and 5 empowered the State Government to pass general or special orders providing for regulations, restrictions and prohibitions as mentioned in the said sections either temporarily or permanently. However, by the 1926 amendment, the word ‘permanently’ has been deleted. Sections 4 and 5 of PLPA, as they stood before the 2019 Amendment Act, read thus:

“4. Power to regulate, restrict or prohibit, by general or special order, within notified areas, certain matters.-In respect of areas notified under section 3 generally or the whole or any part of any such area, the Provincial Government may, by general or special order temporarily regulate, restrict or prohibit-

- (a) the clearing or breaking up or cultivating of land not ordinarily under cultivation prior to the publication of the notification under section 3;***

(b) the quarrying of stone or the burning of lime at places where such stone or lime had not ordinarily been so quarried or burnt prior to the publication of the notification under section 3;

(c) the cutting of trees or timber, or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (b) of this sub-section of any forest-produce other than grass, save for bonafide domestic or agricultural purposes of rightholder in such area;

(d) the setting on fire of trees, timber or forest produce;

(e) the admission, herding, pasturing or retention of sheep, goats or camels;

(f) the examination of forest-produce passing out of any such area; and

(g) the granting of permits to the inhabitants of towns and villages situate within the limits or in the vicinity of any such area, to take any tree, timber or forest produce for their own use therefrom, or to pasture sheep, goats or camels or to cultivate or erect buildings therein and the production and return of such permits by such persons.

5. Power, in certain cases to regulate, restrict or prohibit, by special order within notified areas, certain further matters. –
In respect of any specified village or villages, or part or parts thereof, comprised within the limits of any area notified under section 3, the Provincial Government may, by special order, temporarily regulate, restrict or prohibit-

(a) the cultivating of any land ordinarily under cultivation prior to the publication of the notification under section 3;

(b) the quarrying of any stone or the burning of any lime at places where such stone or lime had ordinarily been so quarried or burnt prior to the publication of the notification under section 3;

(c) the cutting of trees or timber or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (b) of this sub-section of any forest-produce for any purposes; and

(d) the admission, herding, pasturing or retention of cattle generally other than sheep, goats and camels or of any class or description of such cattle.”

Section 6 lays down the procedural requirement of publishing notifications/orders issued under Sections 4, 5 or 5A in the official gazette after recording the satisfaction of the State Government, after due inquiry, that the directions contained in the orders are necessary for the purposes of giving effect to the provisions of PLPA. Section 7 enables the persons affected by special orders under Sections 4, 5 and 5A to seek compensation.

47 to 63

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64. *Thus, we hold that the lands covered by the special orders issued under Section 4 of PLPA have all the trappings of forest lands within the meaning of Section 2 of the 1980 Forest Act and, therefore, the State Government or competent authority cannot permit its use for non-forest activities without the prior approval of the Central Government with effect from 25th October 1980. Prior permission of the Central Government is the quintessence to allow any change of user of forest or so to say deemed forest land. We may add here that even during the subsistence of the special orders under Section 4 of PLPA, with the approval of the Central Government, the State or a competent authority can grant permission for non-forest use. If such non-forest use is permitted in accordance with Section 2 of the 1980 Forest Act, to that extent, the restrictions imposed by the special orders under Section 4 of PLPA will not apply in view of the language used in the opening part of Section 2 of the 1980 Forest Act. We also clarify that only because there is a notification issued under Section 3 of PLPA, the land which is subject matter of such notification, will not ipso facto become a forest land within the meaning of the 1980 Forest Act.*

65. *Therefore, the lands covered by the special orders dated 18th August 1992 issued under Section 4 of PLPA will be governed by the orders passed by this Court in the Petition for*

Special Leave to Appeal (Civil) Nos.7220-7221 of 2017. Hence, all the concerned authorities shall take action to remove the remaining illegal structures standing on land covered by the special orders and used for non-forest activities on the said lands erected after 25th October 1980, without prior approval of the Central Government, and further to restore status quo ante including to undertake reforestation/afforestation programmes in right earnest. As far as the lands covered by special orders under Section 5 are concerned, we are not making any adjudication. Therefore, the authorities will have to decide the status of the lands covered by the said orders under Section 5 on case to case basis.”

5.2 From perusal of the above-extracted observations made by the Hon’ble Apex Court, it is apparent that as regards the notification issued under the PLPA, 1900 is concerned, an appropriate adjudication has to be made by the authorities to decide the status of the land on case to case basis.

6. In view of the above, the present writ petition is dismissed, however, leaving it open to the petitioner to approach the concerned/competent authorities under the PLPA, 1900 and/or the Forest Act, 1980, in accordance with law.

7. All pending applications (if any) shall also stand closed.

August 04, 2025
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No