

2025:PHHC:121243



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

CWP-26242-2025 (O&M)
Date of decision :05.09.2025

SUNIL KUMAR

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Munish Jolly, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Sr. D.A.G., Punjab.

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*, for setting aside the order dated 22.08.2025 (Annexure P-2).

2. Briefly, the petitioner was elected as the Sarpanch of Gram Panchayat Village Rangilpur, Tehsil and District Rupnagar for the term 2008-2013. Petitioner alleges that one Sh. Manjit Singh, who was elected as the Sarpanch in January-2019, on account of party faction, moved a complaint against him, whereupon the Director, Department of Rural Development, Punjab vide his order dated 12.02.2020, directed the concerned Block Development and Panchayat Officer, to proceed against the petitioner as per the provisions of Section 216 of the Punjab Panchayati Raj Act, 1994 (for short 'the 1994 Act').

2.1 The afore-said order dated 12.02.2020 came to be challenged by the petitioner before this Court by way of filing a Writ Petition (**CWP-20032-2020**), which came to be allowed vide order dated 17.07.2023 (Annexure P-1), by observing as under :-

“From the perusal of record, it is evident that the tenure of the petitioner as Sarpanch came to an end in the year 2013 and as enumerated under the Act, the petitioner cannot be called upon to explain for any loss after the expiry of two years from the date of his ceasing to be a member of the Panchayat or after expiry of four years from the date of occurrence of loss. Thus, action initiated by the respondents is in violation to the mandate of the statutory period of two/four years and thus, filing of the complaint by respondent No.7 after a period of about six years from the date when the petitioner ceased to be a member of the Panchayat, is self speaking and hence, the action initiated by the respondents is illegal. Merely because there is an alternative remedy under the Act or the enquiry is yet to be concluded, does not prevent this Court from taking cognizance of the action initiated by the respondents against the petitioner.

From the overwhelming facts and circumstances of the case and viewing the statutory provisions of the Act, this Court is of the opinion that the impugned letter dated 12.02.2020 (Annexure P-3) is totally in violation of the provisions of Section 216 of the Act and thus, the same being unsustainable in the eyes of law is hereby quashed and the subsequent actions against the petitioner in pursuant to the same are also quashed.

The petition stands allowed.”

2.2 It transpires that during the pendency of the afore-said writ petition before this Court, another enquiry was marked by the Financial Commissioner, Rural Development and Panchayat, Punjab, which was directed to be conducted by a Committee of three officers, who had

submitted a report dated 09.05.2022. It appears that on account of certain discrepancies in the said report, the concerned department was directed to submit a clear report vide letter dated 03.10.2022, followed by another letter dated 15.09.2023 and upon consideration of the said report, the following order dated 22.08.2025 (Annexure P-2) was passed :-

“From this report it is already clear that 15,12,146+11,70,171=26,82,317 is recoverable, which is already mentioned in the report.

Mr. Sunil Kumar, former Sarpanch (year 2008-2013) and Mrs. Kamaljit Kaur, former Sarpanch (year 2013-2018), are former Sarpanches of Gram Panchayat Rangeelpur, therefore, on the report received, opinion was taken from the Law Officer regarding the action to recover a total of Rs.26,82,317/-. He brought to the notice that the action under Section 216 was initiated by the Block Development and Panchayat Officer, Rupnagar with notice dated 12.02.2020. Against which Mr. Sunil Kumar, former Sarpanch (year 2008-2013), filed a Civil Writ Petition No.20032 of 2020 in the Hon'ble Punjab and Haryana High Court, in which the Hon'ble Punjab and Haryana High Court, vide order dated 17.07.2023, has quashed the proceedings and notice under Section 216 due to the expiry of the prescribed time (time-bar). Under Section 216(4) of the Punjab Panchayati Raj Act, 1994, it is prohibited to initiate proceedings under Section 216 after the expiry of the prescribed time, but no time limit has been fixed for criminal proceedings.

As per the documents filed on record, letter dated 18.07.2025 from the constituted committee and legal opinion, Mr. Sunil Kumar, former Sarpanch (year 2008-2013) and Mrs. Kamaljit Kaur former Sarpanch (year 2013-2018) of Gram Panchayat Rangeelpur are former Sarpanches, therefore as per the report received, the recovery of a total of Rs.26,82,317/- cannot be done in view of Section 216(4) of

Punjab Panchayati Raj Act, 1994. Therefore, it is decided to take criminal action against the concerned.

Therefore, a copy of the inquiry reports received from the constituted committee vide letter no.664, dated 09.05.2022 and letter dated 18.07.2025 is forwarded to the Block Development and Panchayat Officer, Rupnagar with instructions to register an FIR within 15 days and inform the head office about the action taken. Along with this, the Deputy Director (Panchayat Secretary Branch) is instructed to take appropriate action against Mr. Rajiv Kumar, Panchayat Secretary.

This case is disposed of with these observations.”

2.3 In the afore-mentioned circumstances, the petitioner has filed the instant writ petition, for seeking relief, as noticed here-in-above.

3. Learned counsel for the petitioner, *inter alia*, submits that the petitioner is being targeted on account of party faction in the village. It is submitted that once the proceedings under Section 216 of the 1994 Act, initiated against the petitioner, have already been quashed by this Court; therefore, the impugned order dated 22.08.2025 (Annexure P-2) whereby, the Director, Rural Development and Panchayat, Punjab has directed initiation of criminal action/FIR against all concerned, cannot be sustained. It is also submitted that before passing the order dated 22.08.2025 (Annexure P-2), no opportunity of hearing has been afforded to the petitioner.

4. Heard.

5. Evidently, the petitioner was the Sarpanch of Gram Panchayat Village Rangilpur for the period 2008-2013. It appears that on account of certain complaints regarding financial irregularities, proceedings under Section 216 of the 1994 Act, were initiated against the petitioner and others; however, the petitioner challenged those proceedings before this

Court by way of filing **CWP-20032-2020**, which came to be allowed vide order dated 17.07.2023 (Annexure P-1) thereby, quashing the proceedings under Section 216 of the 1994 Act primarily, in terms of Section 216(4) of the 1994 Act, by observing that the same could not have been initiated after the expiry of two years from the date of the petitioner having ceased to be a member of the Panchayat or after expiry of four years from the date of occurrence of the loss. In other words, the afore-said proceedings were quashed as they were initiated beyond the period of four years from the date of occurrence of loss. It is not disputed that during the pendency of the writ petition before this Court, another enquiry was ordered by the Financial Commissioner by constituting a Committee, who had submitted a separate report, highlighting certain financial irregularities and upon considering the report, the Director, Rural Development and Panchayat, after taking due notice of the fact that this Court had already quashed the proceedings under Section 216 of the 1994 Act, has directed the Block Development and Panchayat Officer, Rupnagar to initiate criminal action/FIR against all concerned. A further direction has been issued to take appropriate action against Sh. Rajiv Kumar, Panchayat Secretary.

6. Apparently, an inquiry into the allegations of misappropriation/mis-utilization of Gram Panchayat's funds/property was got conducted wherein, the involvement of the petitioner and other persons including the then Panchayat Secretary has been found, which indeed is a serious matter. If the Director, who exercises administrative jurisdiction over the issue, upon considering an enquiry report, forwards the matter to the concerned authorities for initiation of criminal action/FIR against all concerned, no fault can be found with the same. In **Naman Singh alias**

Naman Pratap Singh v. State of Uttar Pradesh, 2019 (1) RCR (Criminal)

350; Hon'ble Supreme Court held as under:-

“...If a complaint is lodged before the Executive Magistrate regarding an issue over which he has administrative jurisdiction, and the Magistrate proceeds to hold an administrative inquiry, it may be possible for him to lodge an F.I.R. himself in the matter...”

6.1. As regards the submission of the learned counsel for the petitioner that no opportunity of hearing has been afforded to the petitioner before passing order dated 22.08.2025 (Annexure P-2), recommending lodging of FIR, it is observed that under the scheme of our criminal justice system, there is no provision for affording any opportunity of hearing to an accused against whom the allegations of cognizable offence are made. Hon'ble Apex Court in ***Union of India Versus W.N. Chadha, 1993 AIR (SC) 1082***, held as under:-

“91. If prior notice and an opportunity of hearing are to be given to an accused in every criminal case before taking any action against him, such a procedure would frustrate the proceedings, obstruct the taking of prompt action as law demands, defeat the ends of justice and make the provisions of law relating to the investigation as lifeless, absurd and self-defeating. Further, the scheme of the relevant statutory provisions relating to the procedure of investigation does not attract such a course in the absence of any statutory obligation to the contrary...”

7. As regards the submission on behalf of the petitioner that the proceedings under Section 216 of 1994 Act have already been quashed therefore, no action can be taken against the petitioner; it is observed that Section 216 (*ibid*) deals with the liability of members of panchayat for the loss, waste or mis-application of any money or property belonging to the panchayat, if such loss, waste or misapplication is a consequence of his

neglect or mis-conduct. In the instant case, the issue is regarding initiation of criminal action/FIR against all concerned as regards acts of misappropriation of Gram Panchayat's funds/property.

7.1 I am of the considered view that the criminal proceedings stand on a different footing from that of the proceedings under Section 216 of the 1994 Act though the criminal case may have its origin from the same and/or overlapping facts. It needs no reiteration that in case of civil liability, the offender has to discharge the liability by compensating the person affected in accordance with law, but in criminal action, the wrong doer is to receive punishment.

8. No other argument was raised.

9. In view of the above, I find no merit in this petition and the same is, accordingly, dismissed.

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

September 05, 2025
gurpreet

(HARSH BUNGER)
JUDGE

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