

Before Hon'ble Amarjeet Chaudhary & Ashok Bhan, JJ.

HARBANT SINGH,—Petitioner.

versus

STATE OF PUNJAB & OTHERS,—Respondents.

C.W.P. No. 8896 of 1995

The 21st September, 1995

*Constitution of India, 1950—Arts. 226/227—Punjab Panchayati Raj Act, 1994—S. 200(2)—Power to appoint Administrator of a Gram Panchayat—Situations or contingencies in which such power can be exercised.*

Held, that it is only in one contingency that an Administrator can be appointed if the Sarpanch has failed to perform any duty other than the judicial function, within the time specified by the District Development and Panchayat Officer, then and only then, the District Development and Panchayat Officer would have the jurisdiction to appoint an Administrator. It is not claimed that the Sarpanch had failed to perform any of his duties within the period specified by the District Development and Panchayat Officer or that he was incompetent to perform his duties. The order appointing the Administrator is, therefore, against the express provisions of law and passed on extraneous reasons. The same is liable to be set aside and quashed.

(Para 8)

Further held, that the Punjab Panchayati Raj Act, 1994, was enacted with the avowed object to establish a three tier Panchayati Raj System in the State of Punjab with elected bodies at the Village, Block and District level, in keeping with the provisions of the Constitution (Seventy third amendment) Act, 1992 for greater participation of the people and more effective implementation of rural development and Panchayati Raj System. Panchayat is an elected body and the elected members of this body should be given free hand to conduct their own business as per the objects of the Act. This would be in consonance with the directive principles enshrined in the Constitution of India under Article 40. The power of the elected bodies under the Statute cannot be encroached upon by any authority except in accordance with the procedure established in the Act. These elected bodies should not be restrained or stopped from discharging their duties by passing orders which are without jurisdiction, illegal and unsustainable in law.

(Para 13)

P. S. Dhaliwal, Advocate, for the Petitioner.

Randhir Singh AAG(P). Rajeev Godara, Advocate, for the Respondent.

---

**ORDER**

(1) Under what circumstances a District Development and Panchayat Officer can appoint an Administration of a Gram Panchayat under Section 200(2) of the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act') is the important question of law which arises in this writ petition.

(2) Shortly stated, the facts are :—

(3) Harbant Singh, petitioner (hereinafter referred to as 'the petitioner') was elected as Sarpanch of Gram Panchayat village Datewas, Block Budhlada, District Mansa, in the last Gram Panchayat Elections held in the State of Punjab. It is stated that the petitioner belonged to the Akali Dal and respondent No. 4 Shri Hardev Singh Arshi is a Member of Legislative Assembly, who had won on a communist ticket from the Budhlada Constituency ; that at the instance of respondent No. 4, order Annexure P-1 has been passed by the District Development and Panchayat Officer, purporting to exercise jurisdiction under Section 200(2) of the Act, whereby one Pawan Kumar, Junior Engineer, has been appointed as an Administrator for spending the grants of the Gram Panchayat Datewas. It is further averred that the petitioner he never been asked by the District Development and Panchayat Officer to perform any development works and that the petitioner had not failed to carry out any of the directions of the District Development and Panchayat Officer. The case of the petitioner is that the order, Annexure P-1, was without jurisdiction, against the provisions of law and, therefore, unsustainable and liable to be quashed.

(4) Notice of motion was issued in response to which two separate written statements, one on behalf of respondents 1 to 3 and the other on behalf of respondent No. 4 have been filed.

(5) A perusal of the order, Annexure P-1, shows that the Administrator has been appointed to spend the grants given to the Gram Panchayat Datewas, at the instance of respondent No. 4. It has been written in the order that Shri Hardev Singh Arshi, M.L.A., had requested that "whatever grants are given to Datewas these should be spent through village Development and Panchayat Department and had also requested for appointment of Administrator so that these grants could be utilised". Thereafter, the District Development and Panchayat Officer proceeded to appoint Shri Pawan Kumar, Junior Engineer, as Administrator for spending the grants of Gram

Panchayat Dewas. Whatever expenses were to be incurred by the Administrator, the same were to be borne from the panchayat fund.

(6) Section 200 of the Act, reads as under :—

“200. *Default of duties by the Panchayats.*—(1) Where a Panchayat makes a default in the performance of any duty other than a judicial function imposed upon it by or under this Act or under any other law for the time being in force,—

(i) in the case of a Gram Panchayat, District Development and Panchayat Officer ; and

(ii) in the case of a Panchayat Samiti or a Zila Parishad, the Director ; may by an order in writing fix the period for the performance of the duty and if it is not performed within the period so fixed, he may appoint any other person to perform the duty and direct that the expenses arising from, and incidental to, its performance shall be paid by the Gram Panchayat.

(2) If, in the opinion of the Director a Panchayat has failed or is otherwise incompetent to administer its property, movable or immovable, in the best interests of the Panchayat the Director, after giving an opportunity to the concerned Panchayat of being heard may appoint a person to administer such property for or on behalf of the concerned Panchayat :

Provided that the Director may at any time terminate such arrangement and thereupon the administration of the property shall be resumed by the concerned Panchayat.

xx                      xx                      xx                      xx                      xx.”

(7) The case of the petitioner is that he has never defaulted in the performance of any duty which the District Development and Panchayat Officer may have directed him to perform within the period specified by him and in the absence of the same, the District Development and Panchayat Officer had no jurisdiction to appoint an Administrator.

(8) We find substance in the argument raised by the counsel for the petitioner. A perusal of Section 200(2) of the Act shows that it is only in one contingency that action can be taken against the petitioner i.e. if he has failed to perform any duty other than the judicial function, within the time specified by the District Development and Panchayat Officer, then and only then, the District Development and Panchayat Officer would have the jurisdiction to appoint an Administrator. In the written statement filed by respondents 1 to 3, it has not been stated that the petitioner had failed to perform any of his duties within the period specified by the District Development and Panchayat Officer or that he was incompetent to perform his duties. The order, Annexure P-1 is, therefore, against the express provisions of law and passed on extraneous reasons i.e. on the asking of the local Member of Legislative Assembly and is, therefore, liable to be set aside and quashed.

(9) A Division Bench of this Court, while considering similar provisions under Section 99(1) of the Punjab Gram Panchayat Act, 1952, in *Hakim Singh v. State of Punjab and others* (2), held as under :—

“A bare perusal of the aforesaid provision would show that it is only in one contingency that the action could be taken, i.e. if the Deputy Commissioner or the District Development and Panchayat Officer had fixed a period for performance of some function other than judicial function by the Panchayat that on failure to do so, Administrator could be appointed. There is no allegation in the written statement that any such period for performance of function was fixed by the competent authority, mentioned therein. It is a fact that a grant was made available to the Panchayat for being spent. However, no period was fixed for utilization of such funds by the Panchayat.”

(10) Similar view was again reiterated in *Pritam Singh, Sarpanch v. The State of Punjab and others* (3).

(11) The order, Annexure P-1, being without jurisdiction and unsustainable in law, having been passed against the express provisions of law, is ordered to be quashed.

---

(2) 1994 P.L.J. 206.

(3) 1994 P.L.J. 591.

(12) Counsel appearing for respondent No. 4 contended that the work entrusted to the Administrator has already been carried out and, therefore, the writ petition has become infructuous and should be dismissed as such.

(13) We did not want to adopt the easy course suggested by the counsel for respondent No. 4 to dispose of the petition having been rendered infructuous as we felt that the action of the District Development and Panchayat Officer deserves to be quashed and an expression of opinion given so that in future such orders are not passed. The Punjab Panchayati Raj Act, 1994, was enacted with the avowed object to establish a three tier Panchayati Raj System in the State of Punjab with elected bodies at the Village, Block and District Level, in keeping with the provisions of the Constitution (Seventy-third Amendment) Act, 1992 for greater participation of the people and more effective implementation of rural development and Panchayati Raj System. Panchayat is an elected body and the elected members of this body should be given free hand to conduct their own business as per the objects of the Act. This would be in consonance with the directive principles enshrined in the Constitution of India under Article 40. The power of the elected bodies under the Statute cannot be encroached upon by any authority except in accordance with the procedure established in the Act. These elected bodies should not be restrained or stopped from discharging their duties by passing orders which are without jurisdiction, illegal and unsustainable in law. The District Development and Panchayat Officer has proceeded to appoint an Administrator, in this particular case, at the instance of a local Member of Legislative Assembly. No other reason has been given for appointment of an Administrator. Such an order cannot be sustained in law and is liable to be quashed.

(14) Accordingly, this writ petition is allowed with costs which are assessed at Rs. 500.

---

**S.C.K.**