

(2010) 08 P&H CK 0379

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Balwinder Singh and Another

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: Aug. 25, 2010

Acts Referred:

- Punjab Panchayati Raj Act, 1994 - Section 20

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J

Bench: Single Bench

Judgement

Kanwaljit Singh Ahluwalia, J.

Two residents of village Masit, Tehsil Sultanpur Lodi, District Kapurthala, invoked extraordinary writ jurisdiction of this Court to pray that action be taken against respondent No. 10 for having auctioned on lease 317 acres of shamlat land without following due procedure, as prescribed under the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as "1994 Act").

2. Learned Counsel for the petitioners has submitted that it was incumbent upon the Director, Rural Development and Panchayat, Punjab, at Chandigarh, to look into the allegations which formed part of the enquiry held by the Sub Divisional Magistrate, Sultanpur Lodhi, on 8.7.2009 (Annexure P1) and invoke Section 20 of the 1994 Act.

3. Brief facts of the case are that in village Masit, there is a shamlat land. Respondent No. 9-Gram Panchayat, village Masit used to give this land on lease through auction. Grievance of the petitioners is that for the agricultural year 2009-2010, respondent No. 10 Balbir Singh, Sarpanch, had given the land on lease and for this an auction was held without issuance of any public notice. It is further stated that on a complaint, the Sub Divisional Magistrate, Sultanpur Lodhi, held an enquiry and submitted a report (Annexure P1) to the Deputy Commissioner, Kapurthala. In the report (Annexure P1), it was concluded as under:

...In view of the statements given by both the parties, the facts which have come are that the auction of 37 acres 4 kanals 2 marlas of Gram Panchayat land of village Masit has been shown to be held on 20.5.2009.

1) The process of auction was started on 20.4.2009 and the dates were changed for one reason or the other.

2) After this, on 18.5.2009 i.e. date of auction the bidders were asked to deposit Rs. 20,000/- as security.

3) On 18.5.2009 B.D.P.O. Sultanpur Lodhi was present at the time of auction. After this the auction was suspended and re-fixed for 20.5.2009. On 20.5.2009 the auction was started in which neither B.D.P.O. Sultanpur Lodhi nor D.D.P.O. Kapurthala were present.

4) In the auction held on 20.5.2009 for 77 plots, maximum plots have been given to earlier leaseholder for 1 year. Only about 10 new persons have been given the lease.

In the aforesaid enquiry, it has also come to light that it appears that the place of auction was the house of Sh. Kulwant Singh, Member Panchayat and while sitting at his house on 20.5.2009 the lease was given to near and dear ones. The presence of marked in the proceeding register appears to be fake. It is proved that this whole exercise has been done by Sarpanch in presence and connivance with Sh. Sukhchain Singh, Panchayat Secretary. Sh Sukhchain Singh, Panchayat Secretary, admitted orally before me that the auction was held at Kulwant Singh's house on 20.5.2009. He also said orally that B.D.P.O. and D.D.P.O. were not present at the spot on 20.5.2009. He further said that earlier also the auctions are held like this in village Masita. These words were said to me in presence of B.D.P.O. Sultanpur Lodhi but in written statement he did not admit this thing. In this manner, a Government official has done this exercise by misusing his official position for personal benefits. As such while taking action against Sh. Balbir Singh Sarpanch Masita and Sh. Sukhchain Singh, Panchayat Secretary, it is recommended that auction be held on 20.2009 may be cancelled and the auction be held afresh for Gram Panchayat Masita.

4. A perusal of proceedings book (Annexure P2) reveals that for holding an auction, a special announcement was made at the spot. Before the auction, the land was leased out. The Additional Deputy Commissioner, Kapurthala in a communication dated 10.8.2009 (Annexure P3) held that since the persons, who were declared as successful bidders in the auction, had approached the Civil Court, the matter can be looked into by the Sarpanch after the case is decided by the Civil Court. It was further stated that the persons, who had deposited the amount, were seeking refund and the same was to be made by the Sarpanch.

5. Mr. Hardip Singh, Advocate, appearing for respondent No. 10-Sapanch, has submitted that for the year 2009-2010, there was an increase in the revenue of about Rs. 5,00,000/- more than the previous year. He further stated that the auction

was held under the supervision of District Development and Panchayat Officer, Kapurthala and Block Development and Panchayat Officer, Sultanpur Lodhi.

6. To controvert this, learned Counsel for the petitioners has submitted that 317 acres of shamlat land was auctioned for a meager amount of Rs. 22,33,800/-, whereas in the auction held for next agricultural year i.e. 2010-2011, the land has been given on lease for Rs. 1,07,45,400/-. Learned Counsel further submitted that this year, the Gram Panchayat has been able to garner lease money five times more than the last year, when the auction was held by respondent No. 10-Sarpanch.

7. This Court, at this stage, will not determine the truth and veracity of the allegations and counter-allegations made. However, from the facts and circumstances enumerated above, this Court can formulate an opinion that it is a case where a regular enquiry ought to be held regarding the conduct of respondent No. 10-Sarpanch on basis of report (Annexure P1) submitted by Sub Divisional Magistrate, Sultanpur Lodhi. Hence, respondent No. 5-Director, Rural Development and Panchayats, Punjab at Chandigarh, is directed to proceed against respondent No. 10-Sarpanch u/s 20 of the 1994 Act, after issuing a Show Cause Notice to him to project his view point. The conduct of District Development and Panchayat Officer, Kapurthala and Block Development and Panchayat Officer, Sultanpur Lodhi, shall also be enquired into by respondent No. 5 on departmental side. The proceedings u/s 20 of the 1994 Act shall be concluded by respondent No. 5 within a period of four months from the date of receipt of a certified copy of this order. Needless to say, the complainant and respondent No. 10-Sarpanch will be afforded opportunity of hearing.

With the observations made above, the present writ petition is disposed of.