

(2001) 05 P&H CK 0188

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 129 of 2000

Rati Ram

APPELLANT

Vs

The State of Haryana and others

RESPONDENT

Date of Decision: May 16, 2001

Acts Referred:

- Haryana Panchayati Raj Act, 1994 - Section 53(3)

Citation: (2002) 3 RCR(Civil) 267

Hon'ble Judges: N.K. Sud, J; Jawahar Lal Gupta, J

Bench: Division Bench

Advocate: Sanjeev Gupta, for the Appellant; Palika Monga, A.A.G. Haryana, for the Respondents No. 1 to 5 and Mr. J.B. Tacoria, for the Respondent No. 6, for the Respondent

Judgement

Jawahar Lal Gupta, J.

On June 9, 1998, the Deputy Commissioner, Sirsa directed the District Development and Panchayat Officer, Sirsa to recover an amount of Rs. 5,67,881/- from the Petitioner. This recovery was ordered to be made for the loss caused by the Petitioner while he was working as Sarpanch. In fact, it was alleged that he had embezzled this amount. Aggrieved by this order, the Petitioner filed an appeal before the Director, Development and Panchayats. Vide order dated July 16, 1998 (a copy of which has been produced as Annexure P5 with the writ petition), the Director observed that the powers to hear appeal had been delegated to the Deputy Commissioner u/s 53(3) of the Haryana Panchayati Raj Act, 1994. Thus, the appeal was forwarded to the Deputy Commissioner for disposal. On June 9, 1999, the Deputy Commissioner dismissed the appeal in default, as the Petitioner was not present. The Petitioner challenges this order on the ground that initially the order for recovery having been passed by the Deputy Commissioner, the appeal should not have been forwarded to him. It has been further stated before us that even the application for restoration of appeal has been dismissed on April 26, 2000. The Petitioner prays that the order dated June 9, 1999, passed by the Deputy

Commissioner (a copy of which has been produced as Annexure P2 with the petition) be quashed and that the matter be remitted to the Director for decision on merits.

2. The claim made on behalf of the Petitioner has been contested by the counsel for the Respondents.

3. Mr. Sanjeev Gupta, Learned Counsel for the Petitioner contends that the Deputy Commissioner should not have heard and decided the appeal. He further submits that the case may be remanded to the Director for decision on merits.

4. Ms. Palika Monga appearing for Respondents No. 1 to 5 and Mr. J.B. Tacoria appearing for Respondent No. 6 have controverted this.

5. If the Petitioner's grievance was that the Deputy Commissioner should not have heard the appeal, he should have objected to the order passed by the Director, by which the appeal was forwarded to the Deputy Commissioner for decision. It appears that the Petitioner kept on waiting and having failed before the Deputy Commissioner, he had approached this Court. Still further the application for restoration was dismissed as barred by limitation, vide order dated July 26, 2000. Despite the lapse of more than a year, even this order has not been challenged by the Petitioner. This conduct of the Petitioner has left us very unhappy. However, lest there should be a failure of justice or the Petitioner should be burdened with an undeserved liability, which he may be able to explain, we deem it appropriate to direct that the Petitioner's appeal against the order dated June 9, 1999, (a copy of which has been produced as Annexure P1 with the petition) shall be considered and decided by the Director-Respondent No. 2 on merits.

6. The writ petition is accordingly disposed of. No costs.

7. The parties through their counsel are directed to appear before the Director, Development and Panchayats, Haryana, Chandigarh, on July 2, 2001.

Sd/- N.K. Sud, J.