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CWP-22311-2022

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

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CWP-22311-2022

Date of Decision : May 08, 2023

GRAM PANCHAYAT BADALIYAN

-Petitioner

V/S

THE FINANCIAL COMMISSIONER TO GOVT. PUNJAB AND ORS.

-Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. C.L. Premy, Advocate with
Ms. Raman Rekhi, Advocate and
Ms. Navjot Kaur, Advocate
for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab.

Mr. Mitul Singh Rana, Advocate
for the respondent No.8.

Mr. A.K. Singh Goyat, Advocate
for the respondent No.9.

SURESHWAR THAKUR, J.(ORAL)

1. The prayer made in the instant writ petition, is for a mandamus being made upon the respondent(s) concerned, for the quashing of Annexure P-12, whereby, respondent No.3 has directed respondents No.5 & 6, to construct a rasta, for respondent No.9, who is stated to be an unauthorized occupant over land(s) owned and possessed by the Gram Panchayat Badaliyan.

2. The learned counsel for the petitioners submits, that the Collector of the revenue district concerned, who is impleaded as co-



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respondent No.4 in the instant writ petition, has not borne in mind, the Resolution (Annexure P-6) passed by the Gram Panchayat concerned, whereby it has shown its resistance to construct the rasta, as, the said rasta is not meant for the benefit of the entire villagers concerned, but is being constructed only for the personal benefit of co-respondent No.9.

3. The other argument raised before this Court, by the learned counsel for the petitioner, against the implementation of the said direction, is premised on the factum, that the Gram Panchayat concerned rather has resisted the directions of the Collector of the revenue district concerned, as the revenue rasta, which is proposed to be constructed, thus would subserve the estate-holders of Gram Panchayat Swar, and, would not subserve the estate-holders of Gram Panchayat Badaliyan.

4. The above argument was earlier addressed before this Court, on 21.02.2023, and, which resulted in the hereinafter extracted orders being made by this Court.

“2. After hearing the learned counsels for some time, this Court makes a direction, upon the learned State counsel to, on the subsequent date of hearing ensure, that the responsible functionary of the respondent concerned, files an affidavit with a disclosure therein, qua the exact portion of encroached upon Gair Mumkin Rasta, and, whether such exact encroached portion, respectively falls within the jurisdiction of Gram Panchayat Badaliyan, or of Gram Panchayat Swar.”

5. In pursuance to the above directions being made, upon, the learned State counsel, a reply on affidavit has been filed, wherein, in paragraph 8 thereof, it has been clearly mentioned, that the Gair Mumkin Rasta, which is being proposed to be constructed, thus on the directions of



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the Collector of the revenue district concerned, rather would serve the villagers of Gram Panchayat Badaliyan. In the face of the above, the above argument pales into insignificance and is rejected as such.

6. Even if assumingly, the Panchayat has through a resolution, resisted the directions of the Collector of the revenue district concerned, besides, even if the said revenue rasta may serve only the interests of co-respondent No.9. However, the Gram Panchayat concerned, is under an obligation, to provide a revenue rasta to even a solitary villager, as thereby the right to life, as enshrined in Article 21 of the Constitution of India, which but encompasses therein the duty of State, to purvey convenient accesses to even a singular homestead, so as to enable its inhabitant(s), that in case any emergent medical situation does arise, to thus through an able ambulance road being constructed, upto, even a solitary home of any villager concerned, hence thereby alleviating medical care rather can be purveyed at the medical centres concerned. Resultantly, thereby the said constitutional right to life, thus would become completely subserved.

7. Therefore, even if purportedly, only a single individual, may become benefitted from the construction of a revenue rasta, at the instance of the Collector of the revenue district concerned, yet the above is not a sufficient and well informed reason, for the Panchayat to yet, through a resolution, thus resist to make compliance with the orders of the Collector of the revenue district concerned, as thereby there would be breach of the mandate of right to life as enshrined in Article 21 of the Constitution of India. Reiteratedly, the constitutional mandate of right to life, also encapsulates, the right to a road being constructed upto, the homestead of any citizen, thus for facilitating able ambulance services being purveyed to



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a citizen, thus requiring emergent medical aid.

8. The Collector of the revenue district concerned, if is funding the construction of the said revenue rasta, and, if it is being constructed at the aegis of the Gram Panchayat concerned, construction whereof, otherwise also is the solemn duty cast, upon the Gram Panchayat, thus to enable all villagers concerned, to become facilitated with an ambulance road. Imperatively also, when the Panchayat lands are meant for the common purposes of the village proprietary body, thus are meant to as such rather also serve the above purpose, which also is a purpose, which tenably serves any member of the village proprietary body concerned. Therefore, in the light of the above, this Court finds no merit in the instant writ petition and the same is accordingly dismissed.

9. However, since it is a completely frivolous petition and appears to be generated by malafides, therefore all the expenses incurred in its institution before this Court, shall not be borne from the funds of the Gram Panchayat concerned, but shall be borne from the pockets of the Sarpanch of the Gram Panchayat concerned. The said costs are quantified in a sum of Rs.50,000/-, and, the same shall be forthwith deposited with the Treasurer of the Punjab and Haryana High Court Bar Association.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

May 08, 2023
devinder

Whether speaking/reasoned. : Yes/No
Whether Reportable : Yes/No