



106

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

**LPA-3086-2024 (O&M)
Decided on: February 24, 2025**

Dharam Pal

....Appellant

versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present:- Mr. Narender Pal Bhardwaj, Advocate for the appellant.

SUDHIR SINGH, J. (ORAL)

CM-7614-LPA-2024

For the reasons stated in application, same is allowed. Delay of 01 day in filing the appeal is condoned.

Main case (O&M)

The present intra Court appeal is directed against the order dated 24.10.2024 passed by learned Single Judge, in CWP-28918-2024, whereby the said writ petition filed by the appellant, has been dismissed.

2. Before the learned Single Judge, the appellant had sought a writ of Mandamus directing the official respondents to take appropriate action on the complaints dated 29.08.2024 (Annexures P-1 to P5) submitted by him against respondent No.8 in respect of the misappropriation and embezzlement of *panchayat* funds, while the said respondent was a *Sarpanch*.

3. Learned counsel appearing on behalf of the appellant has vehemently argued that finding of the learned Single Judge that the writ petition as also the complaints filed by the appellant were devoid of material particulars and that only vague and general allegations had been made therein, is factually incorrect as a perusal of the complaints (Annexures P-1 to P-5) made by the appellant, would clearly show that specific allegations regarding embezzlement of *panchayati* funds had been levelled in the said complaints. It is also argued that the learned Single Judge, has not taken into consideration the provisions of Section 53 of the Haryana Panchayati Raj Act, 1994 (for short 'the Act of 1994'), whereby the official respondents are mandated to act upon any complaint regarding the embezzlement or misappropriation of *panchayati* funds. It is further argued that the judgment of the Hon'ble Supreme Court in **Ashok Kumar Pandey versus State of W.B., 2004 (3) SCC 349** is not applicable to the facts of the present case as the said judgment pertains to the matters of public interest litigation(s). Thus, a prayer has been made for setting aside the impugned order passed by the learned Single Judge.

4. We have heard the learned counsel for the appellant and have also gone through the file of the case, including the impugned order passed by learned Single Judge.

5. A perusal of the impugned order would show that the learned Single Judge, in para-2 of its order, had quoted *in extenso* the instances of embezzlement mentioned by the appellant against respondents No.5, 6 and 8. On the basis thereof, it was found that the said allegations and the contents of the complaints/representations (Annexures P-1 to P-5) were lacking in

material particulars and only vague and general averments/ allegations had been made.

6. Adverting to the aforesaid contentions of the learned counsel for the appellant, we may notice that Section 53 of the Act of 1994 stipulates the liability of a *Sarpanch* or *Panch*. Sub section(1) of the Section 53 thereof stipulates that every *Sarpanch* or a *Panch* of a Gram Panchayat shall be liable for the loss, waste or mis-application of Gram funds or property belonging to the Gram Panchayat, if such loss, waste or mis-application is the result of neglect or mis-conduct of *Sarpanch* or *Panch*. Sub Section(s) stipulates that Sub-Divisional Officer concerned may on the application of the Gram Panchayat or otherwise in respect of loss, waste or misapplication of the Gram funds or property of that Gram Panchayat assess by order in writing the amount due from him on account of such loss, waste or mis-application of such Gram Funds or property.

7. In the instant case, the applicability of Section 53(1) of the Act of 1994 would come into play only if the appellant satisfies the requirement for attraction of the said provisions. We find that the allegations levelled in the complaints/ representations (Annexures P-1 to P-5) and ones contained in the writ petition, as extracted by the learned Single Judge, would make out that only general and vague allegations without any foundational basis have been levelled by the appellant. Even otherwise, provisions of Section 53(2) of the Act of 1994 are directory in nature, as it has been stipulated that the Sub-Divisional Officer concerned “may” on the application of the Gram Panchayat or otherwise in respect of loss, waste or misapplication of the Gram funds or property of that Gram Panchayat assess by order in writing the

LPA-3086-2024 (O&M)

amount due from him on account of such loss, waste or mis-application of such Gram Funds or property. Thus, the concerned authorities have a directory power in terms of the aforesaid provisions to go into the question of loss, waste or mis-application of the Gram Panchayat funds or property.

8. It may also be noticed that the appellant has not been able to produce any document from which it could at least *prima facie* be established that the alleged loss had actually been caused to the Gram Panchayat concerned at the hands of respondent No.8.

9. In view of the above, we do not find any illegality in the impugned order, which may warrant any interference by this Court.

10. No other point has been urged.

11. Hence, the present appeal is dismissed.

12. Pending application(s), if any, shall stand disposed of.

(SUDHIR SINGH)
JUDGE

(SUKHVINDER KAUR)
JUDGE

February 24, 2025

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No