

Item No. 06

Court No. 2

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 428/2023

S. C. Kaushal

Applicant

Versus

State of Punjab & Ors.

Respondents

Date of hearing: 30.10.2023

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: Applicant in Person (Through VC).

Respondents: Mr. Karnail Singh DC, Kapurthala.

Mr. Abhinav Jain and Mr. Shashwat Roy Advocates for
respondent no. 4.

Mr. Harjinder Singh, DDPO, Kapurthala.

Ms. Divita Vyas and Ms. Apoorva Pandey Advocates for
respondent no. 6.

Application is registered based on a letter petition received by Post.

ORDER

1. The grievances in the present application are regarding encroachment on land measuring 10 acres 6 kanals owned by Gram Panchayat Badshahpur and illegally cutting and sale of trees standing over the same by respondent no. 6 (Project Proponent).

2. Vide order dated 01.08.2023, this Tribunal ordered issuance of notices to respondents no. 1 to 6 and constituted a Joint Committee to verify the factual position, take remedial action and submit its report.

3. As per office report notices have been duly served on the respondents no 1 to 4 and 6. In order dated 01.08.2023 while impleading respondent no. 5 particulars were inadvertently written as Sarpanch, Gram Panchayat, Kapurthala instead of Sarpanch, Gram Panchayat, Badshahpur, Block Dhilwan, District Kapurthala. Complete particulars of respondent no. 5-Sarpanch, Gram Panchayat, Badshahpur, Block Dhilwan, District Kapurthala were not mentioned due to inadvertent typographical omission. Order dated 01.08.2023 is corrected to mention the complete particulars. Memo of parties be also corrected accordingly. In these facts and circumstances, service of notice on respondent no. 5- Sarpanch, Gram Panchayat, Badshahpur, Block Dhilwan, District Kapurthala by email sent to Deputy Commissioner, Kapurthala cannot be said to be proper.

4. The Registry is directed to issue notice to respondent no. 5- Sarpanch, Gram Panchayat, Badshahpur, Block Dhilwan, District Kapurthala. Notice is ordered to be served on respondent no. 5- Sarpanch, Gram Panchayat, Badshahpur, Block Dhilwan, District Kapurthala through Deputy Commissioner, Kapurthala and for this purpose notice issued to respondent no. 5- Sarpanch, Gram Panchayat, Badshahpur, Block Dhilwan, District Kapurthala be sent to the Deputy Commissioner, Kapurthala by E-mail for getting service of the same effected on him and sending his report in this regard.

5. Report of the Joint Committee has been filed vide email dated 31.08.2023. Reports have been filed by DFO Jalandhar vide email dated

25.08.2023 and PPCB vide email dated 23.10.2023. Replies have been filed by respondent no. 4-DDPO, Kapurthala vide email dated 31.08.2023 and by respondent no.6 (Project Proponent) vide email dated 26.10.2023.

6. The relevant part of the report of the Joint Committee reads as under:-

“Factual & Action taken Report by Joint Committee in Compliance with the orders dated 01.08.2023 of Hon'ble National Green Tribunal, Principal Bench, New Delhi in the matter of Original Application No. 428/2023 Titled" S.C. Kaushal V/s State of Punjab"

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4. Salient Observations:

- 1. Construction of college has been carried out on private land,*
- 2. Barbed wire fencing has been provided around the Panchayat land by owner of the Lord Krishna College.*
- 3. Remnants (Stumps) of 11 trees were observed during the visit.*
- 4. Logs of around 06 trees were still found lying at the site.*

From above, it is cleared that Man Singh S/o Surjan Singh has taken the Land of 6 Acres of village Badshahpur on lease on 12.06.2023 @ 90,000 /- per Annum and cutting of trees planted on the Panchayat Land has indeed occurred, but it remains to be investigated by the police as to who had cut those trees.

5. Conclusion & Suggestions/ Recommendations

The matter was discussed in length by the Joint Committee. The committee is of the view that No illegal encroachment upon Panchayat Land has been made by Man Singh S/o Surjan Singh since the said land in question has already been taken on lease on 12.06.2023 @ 90,000/- per Annum by him. The evidence suggests that cutting of trees has indeed been carried out on the Panchayat land of the Village Badshahpur, Tehsil & District Kapurthala. However, the identity of persons responsible for cutting of trees cannot be ascertained by any or the Civil Departments present in the meeting. No evidence is found which may suggest that the said trees have been cut by the said Man Singh. It is suggested that Plantation should be carried out on the Panchayat land by the Department of Rural Development and Panchayats in-coordination with Forest Department. Investigation should be carried out by the

Department of Police as to find the responsible persons who have cut the trees....”

7. The relevant part of the reply filed by the DDPO, Kapurthala reads as under:-

“REPLY BY WAY OF AFFIDAVIT BY HARJINOER SINGH. DISTRICT DEVELOPMENT AND PANCHAYAT OFFICER, KAPUIRTHALA -RESPONDENT NO.4

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4. That it is pertinent to mention that the matter Is already under consideration with the department of Rural Development and Panchayats. Punjab, as the deponent had wrote vide letter No, reader/D.D.P.O/4264 dated: 29.11.2022 to the Block Development and Panchayat Officer, Dhilwan, to initiate action against the encroachers through police .as per resolution passed by the Gram Panchayat dated 15.11 .2022 and the Block Development and Panchayat Officer, Dhilwan, had wrote a letter no. 304-307 dated 18.08.2023, to the Senior Superintendent of Police, Kapurthala to initiate police action against the encroachers for causing financial loss by cutting trees from panchayat land and by illegal encroachment.

True translated copies of letters dated 29.11.2022 and 18.08.2023 along with vernacular copies are being annexed at Annexure R-1 and Annexure R-2 respectively.

5. That the Petitions under section 7 of the Village Common Land (Regulation) Act. 1961, for putting gram panchayat in possession of its land under encroachment of village Badshahpur, Dhilwan, comprising Khasra no. 11113(1-7}, 14(2-0), 15mln(1.-0), 16(8-0), 17min{6-2), 18(0-18}, 24(6-3), 25(8-0), 21/11, (0-17), 18/2(2-5).(0- 5),(2-0), 19(6-18), 20(8-0), 21(8-0), 22(7-3), 23/1 (0-11), 6//22(8- 0),23min(5-0), total land 11-6-1 is pending as of this date...”

8. The observations made by the Joint Committee that “no illegal encroachment upon Panchayat Land has been made by Man Singh S/o Surjan Singh since the said land in question has already been taken on lease on 12.06.2023 @ 90,000/- per Annum by him” are contradictory to reply filed by DDPO, Kapurthala referred to above which shows that persons including respondent no. 6 and Mann Singh are alleged to have

encroached on land belonging to Gram Panchayat Badshahpur and ejectment proceedings have been filed against them which are pending.

9. In its reply respondent no. 6 has denied having made any encroachment on land belonging to Gram Panchayat Badshahpur and has claimed to be in possession of the same since June 2023 as lessee under above said Gram Panchayat on rent of Rs. 90,000/- per annum. Respondent no. 6 has relied on resolution dated 10.06.2023 annexure R-3 passed by Gram Panchayat, Badshahpur and has claimed to have deposited amount of Rs. 90,000/- with Gram Panchayat, Badshahpur on 12.06.2023. Admittedly ejectment proceedings are still pending against respondent no. 6 and possession was not handed over to Gram Panchayat, Badshahpur before alleged lease in favour of respondent no. 6 so that question as to invalidity of lease in favour of trespasser and illegality of possession of respondent no. 6 also arises particularly when admittedly no lease deed has been executed in favour of respondent no. 6 so far.

10. In its report the Joint Committee has observed that trees standing over the land owned by Gram Panchayat, Badshahpur have been illegally cut but the Joint Committee has expressed inability of the civil departments to identify persons responsible for cutting of the trees standing over the land owned by the Gram Panchayat, Badshahpur. In its report the Joint Committee has also mentioned that Mann Singh the Vice Chairman, Lord Krishna Education Society has informed ASI Paramjit Singh, In-charge, Police Chowki Badshahpur that S.C. Kaushal (present applicant) and Sarpanch of village had cut and stolen the trees. Admittedly, no FIR has been registered so far and the Police has no power to investigate before registration of FIR in respect of cognizable offences. The concerned Civil Departments seem to have completely ignored their

statutory obligations and to have failed to take remedial action on the complaints made by the applicant to them.

11. In compliance with order dated 01.09.2023 Mr. Karnail Singh, Deputy Commissioner, Kapurthala has appeared through VC and Mr. Harjinder Singh, DDPO, Kapurthala has appeared before this Tribunal physically and we have interacted with them.

12. Mr. Karnail Singh, Deputy Commissioner, Kapurthala seeks time to look into the issues personally and submit further Action Taken Report.

13. The request of Deputy Commissioner, Kapurthala is allowed. Further Action Taken Report be filed within one month by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

14. List for further consideration on 06.12.2023.

15. In view of the facts and circumstance of the case, we also consider personal appearance of the Sarpanch, Gram Panchayat, Badshahpur, Block Development and Panchayat Officer, Dhilwan, District Development and Panchayat Officer, Kapurthala (physically) and Deputy Commissioner, Kapurthala (through VC) on the next date of hearing to be essential for producing the relevant documents regarding compliance with environmental norms and assisting this Tribunal in just and proper adjudication of the questions involved in the case and they shall remain present before this Tribunal on that date accordingly.

16. A copy of this order, be forwarded to the Sarpanch, Gram Panchayat, Badshahpur (through Deputy Commissioner, Kapurthala), Block Development and Panchayat Officer, Dhilwan, District

Development and Panchayat Officer, Kapurthala and Deputy
Commissioner, Kapurthala by e-mail for requisite compliance.

Arun Kumar Tyagi, JM

October 30th, 2023
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Dr. Afroz Ahmad, EM