

IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA

CMPMO No. 209 of 2006

Date of Decision: 28th July, 2006

Gian Chand	Petitioner
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Versus

Raj Kumar and others	Respondents
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Coram

The Hon'ble Mr. Justice V.K.Gupta, C.J.

Whether approved for reporting¹?

For the petitioner: Mr.J.R.Thakur, Advocate.

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For the respondent: Mr.M.S.Chandel, Advocate General,
with Mr.P.M.Negi, Dy. Advocate
General, for respondent No.6.

V.K.Gupta, C.J. (Oral)

I have heard Mr.J.R.Thakur, learned counsel
appearing for the petitioner and Mr.Chandel, learned
Advocate General, appearing for respondent No.6. I
have also perused the impugned order.

A bare perusal of the impugned order clearly
suggests that respondent No.6 has set aside, while
exercising his appellate jurisdiction under sub-
section (3) of Section 12 of the H.P. Panchayati Raj
Act, 1994, the orders dated 9th May, 2003 and 26th May,
2003 passed by the Gram Panchayat, Nanawan, in an

¹Whether the reporters of Local Papers are allowed to see the Judgment?

absolutely slipshod manner, apparently and manifestly without any application of mind and of course without assigning any supporting reasons at all. Paras 1 to 10 of the impugned judgment contain narration of the facts and the grounds of challenge. Paras 2 and 3 (of course numbered wrongly) occurring after the aforesaid para 10 are the paras which indicate the process of consideration leading to the setting aside of the impugned order in the aforesaid appeal. Paras 2 and 3 read thus:-

"2. The summons were issued to the respondents and the record of lower court was also called.

3. Sh.Raj Kumar Appellant No.1 and Sh. Gian Chand respondent No.1 were present in person. The report of Naib Tehsildar, Barsar who was appointed as Local Commissioner vide order dated 18.5.2006 has been received. As per report of Local Commissioner the appeal of appellants is accepted and the impugned order of Id. Gram Panchayat Nanawan dated 9.5.2003 and 26.5.2003 are set aside. Copy of the order be sent to the Pradhan Gram Panchayat Nanawan, PO Karsai, Tehsil Barsar, District Hamirpur, HP for information. This court file after due completion be consigned to the General Record Room, Hamirpur, H.P."

Sub-section (3) of Section 12 (supra) casts upon the Sub Divisional Officer, in his capacity as an appellate authority, a statutory obligation to deal with the order impugned before him in an appeal in a judicial manner and based on sound and cogent reasons to dispose of the appeal either by confirming, or by setting aside, or modifying the impugned order. It is by now well settled that authorities exercising judicial or quasi-judicial functions have not only to apply their mind but also have to indicate, as much as possible, the reasons in support of their judgment. The impugned judgment of respondent No.6 clearly reveals that neither he seems to have applied his mind at all to the issues involved in the case, nor on the very face of it does the order impugned herein contain any reason in support of the conclusion arrived at.

Mr.Chandel, learned Advocate General submits that the best course of action would be to set aside the order, to give an opportunity to respondent No.6 to reconsider the entire matter and pass a fresh order in the light of the aforesaid observations made by this Court. Mr.Thakur has no objection to this course being adopted.

This petition is allowed. The impugned order is set aside. The matter is remanded to respondent No.6 for fresh consideration and disposal after affording opportunity of hearing to all parties

concerned and after taking into consideration all pleas raised in the application both on facts as well as in law.

CMPNo.430/2006

In view of the order passed in the main matter, the present application is disposed of.

28th July, 2006
(C)

(V.K.Gupta), C.J.