

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

LPA 71/2020
CM Nos. 3603/2020
CM No. 3874/2020

Gurnam Singh, age 55 years
Son of late S. Pritam Singh
Resident of Ranjit Pura, Camp Gole Gujral
Jammu

..... appellant/petitioner (s)

Through :- Mr. Abhinav Sharma Sr. Advocate
with
Mr. Abhirash Sharma Advocate

V/s

1.UT of Jammu and Kashmir through
Secretary to Government, Department of
Development and Panchayati Raj Civil
Secretariat, Sringar
2.Director, Rural Development Department,
Jammu
3.Block Development Officer, Marh
4.Chairman Block Development Council,
Marh
5.Secretary, Panchayat Ranjitpur
6.Anil Kumar
7.Subash Chander 8. Bua Ditta 9. Narinder
Singh 10.Rajni Devi 11. Subash Chander

.....Respondent(s)

Through :- Mr. S.S.Nanda Sr. AAG
Mr. Kapil Sharma Advocate.

**Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE MOHAN LAL, JUDGE**

ORDER(ORAL)
(16.10.2023.)

Sanjeev Kumar J.

1 This intra-Court appeal is directed against the judgment dated 13.07.2020 passed by a learned Single Judge of this Court [“the Writ Court”] in WP(C) No.1042/2020 titled “Gurnam Singh vs. UT of Jammu and Kashmir and others” whereby the Writ Court has disposed of the writ petition permitting

the official respondents to convene meeting on 20.07.2020 for the purpose of taking up the 'motion of no confidence' moved by some Panchayat members against the appellant herein.

2 The moving of 'no confidence motion' and a notification convening the meeting on 20.07.2020 was subject matter of challenge in the aforesaid writ petition.

3 The appellant had challenged the notice convening the 'no confident motion' against him on four grounds: (i). that the notice of intention to move motion for his removal was never presented before him i.e Sarpanch of the Panchayat Halqa; (ii) that the meeting was not convened and the 'no confidence motion' concluded within 20 days from the date of receipt of the motion; (iii) that, in the absence of any allegation of misconduct or some other disqualification, no such motion for removal of the appellant as a Sarpanch could have been moved; and, (iv) that the Secretary, who was obliged under Rule 81 of the Panchayati Raj Rules, 1996 to issue a notice for convening of the meeting, abdicated his powers to the Chairman, Block Development Council, Marh and issued notification only after obtaining instructions from the later.

4 The Writ Court did not accept any of the contentions of the appellant and disposed of the writ petition in terms of the judgment impugned before us.

5 When the matter was taken up for consideration, it was brought to our notice that, in compliance with the judgment dated 13.07.2020 passed by the Writ Court, the meeting convened for taking up 'no confidence motion'

against the appellant was held on 20.07.2020 in which he was removed from the position of Sarpanch and subsequently fresh election was held in which a new Sparpanch was elected.

6 In view of the aforesaid development, *prima facie*, this appeal is rendered infructuous. However, Mr. Sharma, learned Senior Counsel appearing for the appellant submits that in case the judgment of the Writ Court is sustained, he may be prejudicially affected in a challenge, if any, made to his ouster as well as the fresh election to the post of Sarpanch.

7 Having considered the submissions made by learned counsel for the parties and regard being had to the subsequent developments noted above, we are of the opinion that ends of justice would be subserved by directing as under:

(i) Notwithstanding the disposal of this appeal and the observations made by the Writ Court in the judgment impugned, the appellant shall be free to challenge his ouster from the position of Sarpanch as also the new election held to elect the new Sarpanch in accordance with law; and,

(ii) Since all the four grounds urged by the appellant have not been dealt with by the Writ Court, as such, we leave it open to the appellant to raise all those four grounds noted above in addition to the grounds which may be available to him under law to challenge his ouster as well as the new election to the post of Sarpanch.

8 With the aforesaid observations, this appeal is disposed of and the judgment of the Writ Court modified to the aforesaid extent.

(MOHAN LAL)
JUDGE

(SANJEEV KUMAR)
JUDGE

Jammu
16.10.2023
Sanjeev