IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

Date of decision:03.08.2015.

Sukhdev Singh

.....Petitioner

v.

Joint Development Commissioner and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.HS Dhandi,Advocate for the petitioner

Mz.Monika Chhibbar Sharma,DAG Punjab for respondents

Jaswant Singh,J.(Oral)

Petitioner was elected as Sarpanch of Gram Panchayat Bhaini Sahib,Distt.Ludhiana in general elections for Gram Panchayats conducted in the year 2013.

In the present petition he has laid challenge to the order dated 16.1.2015(P-2) passed by the Director, Rural Development and Panchayat,Punjab whereby he has been placed under suspension under Section 20(5) of the Punjab Panchayati Raj Act,1994; further challenge is to the order dated 29.4.2015(P-4) passed by the Appellate Authority dismissing his appeal against suspension order (P-2).

The basis of passing suspension order is that he has been named as one of the accused in FIR No.104 dated 30.12.2014 under

RAJINDER PRASHAD JOSHI
2015.08.05 11:31
I attest to the accuracy and
authenticity of this document
High Court, Chandigarh.

Sections 353,186,332,382,506,509,148,149 IPC.

Learned counsel for the petitioner has argued that a false case has been foisted upon the petitioner as Department of Panchayats has also ordered a regular enquiry against the petitioner on the basis of such incident wherein he is alleged to be have incited the mob to attack the revenue officials conducting demarcation for removal of unauthorised encroachments from the adjoining Village Mand Chotan,Sub Tehsil Koom Kalan,Distt.Ludhiana and as per the regular enquiry report dated 27.3.2015 (P-3) petitioner has been specifically exonerated.

Learned State counsel on instructions from Baldev Singh, Assistant from the office of Director, Rural Development and Panchayat does not dispute the report P-3. However,she supports the action in view of registration of FIR. The counsel is further unable to state the stage of the investigation.

After hearing counsel for the parties and perusing the paper book with their able assistance this Court finds that the present writ petition is liable to be allowed.

It is not in dispute that with regard to the alleged role as stated in the FIR, the department itself has conducted its own regular enquiry and after recording statements of persons concerned held that the petitioner was not present/involved in inciting the mob. The Revenue Officials have denied the presence of the petitioner in the regular enquiry. It is well settled that mere registration of an FIR does

RAJINDER PRASHAD JOSHI
2015.08.05 11:31
I attest to the accuracy and
authenticity of this document
High Court, Chandigarh.

not gives absolute powers to Panchayat authorities to suspend or remove a Panch or Sarpanch without there being a conviction.

In view of the above, present writ petition is allowed and impugned orders dated 16.1.2015(P-2) and 29.4.2015(P-4) are set aside.

03.08.2015. **(Jaswant Singh)**
joshi **Judge**

RAJINDER PRASHAD JOSHI
2015.08.05 11:31
I attest to the accuracy and
authenticity of this document
High Court, Chandigarh.