

CWP No.13335 of 2014

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

CWP No.13335 of 2014 (O&M)

Date of decision: 14.01.2015

Mohan Lal

....Petitioner

Versus

State of Haryana and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH**

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?
- 2) To be referred to the Reporters or not ?
- 3) Whether the judgment should be reported in the Digest ?

Present: - Mr. Vikram Singh, Advocate, for the petitioner.  
Mr. Sandeep S. Mann, Sr. DAG, Haryana.

**PARAMJEET SINGH, J. (ORAL)**

**CM No.8202 of 2014**

Allowed. Annexure P-6 is taken on record.

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Instant writ petition under Articles 226/227 of the Constitution of India has been filed for quashing the order dated 19.05.2014 (Annexure P-3) passed by respondent No.2 – Deputy Commissioner, Palwal and order dated 01.07.2014 (Annexure P-4) passed by respondent No.1 – Financial Commissioner-cum-Additional Chief Secretary to Government, Haryana, Development & Panchayats Department.

Brief facts of the case are that petitioner was elected as Sarpanch of village Johar Khera (Rakhota). A complaint was lodged against the petitioner that amount has been wrongly transferred in the

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accounts of Bhagwan Dei wife of Kishore, Jitender son of Kishore and Savita wife of Jitender but as per their affidavit they had not done any work under MGNREGA Scheme. Show-cause notice dated 24.12.2013 (Annexure P-1) was issued to the petitioner for his removal from the post of Sarpanch. In pursuance of the show-cause notice, petitioner submitted reply (Annexure P-2). Thereafter enquiry was ordered and SDO (Civil), Palwal conducted the enquiry and recorded following findings: -

“1) That on the muster roll placed on file the signature of Jitender Kumar and his family have not taken by the Sarpanch, although, it was the duty of Sarpanch that he took the signature of Jitender Kumar and his other family members on the Muster Roll but it seems from the statement of Sarpanch and other witnesses Dharmender, Rajbir etc. that Jitender Kumar and his family had done the work under MGNAREGA Scheme but did not sign intentionally on the muster roll. So that, they can submit the complaint. It is not possible to get the signature of any person forcibly, so, the Sarpanch did not prove to be guilty.

2) That as per the statement of Deep Chand son of Roop Chand, Ramwati wife of Deep Chand, they did not sign on the muster roll that their signatures are forced. It can be identified only by sending the thumb impression of the complainant after taking to FSL Madhuban that the signatures of complainants are forged or original, so, this allegation is not possible to prove without the report of FSL.

3) That as the making of Job Card is concerned. The Job Cards have been made by the Sarpanch with the consent of family. It is not possible to make the Job Card without

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*consent of family. But doing so, the Sarpanch will not be benefited. So, this allegation also does not prove. It is mentioned except the above said that the CD which has been submitted in the evidence, it seems from hearing it that Sarpanch has deposited some amount in the accounts of some persons i.e. the persons who did not work under the scheme, deposit the amount in their accounts. So, that he can use the same in his personal use later on.”*

The Deputy Commissioner, Palwal vide order dated 19.05.2014 (Annexure P-3) removed the petitioner from the post of Sarpanch. Aggrieved against the order dated 19.05.2014, petitioner preferred appeal before the Financial Commissioner-cum-Additional Chief Secretary to Government, Haryana, Development & Panchayats Department, which has been dismissed vide order dated 01.07.2014. Hence, this writ petition.

In pursuance of the notice of motion, written statement has been filed by the State wherein it is alleged that petitioner has not complied with the MGNREGA Rules. The amount has been wrongly transferred by the petitioner in the accounts of persons for his personal use though had not worked under the MGNREGA Scheme.

I have heard learned counsel for the parties and perused the record.

It was found that allegations against the petitioner were not proved and he was not found guilty. Except CD no evidence has been brought on record. Only vague allegations have been levelled against the petitioner that amount has been deposited in the accounts of those

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persons who had not worked under the scheme. No document has been annexed by the State to show that the petitioner has deposited the amount in the accounts of persons who had not worked under the MGNREGA Scheme. There is no report of any officer that petitioner has deposited the amount in the accounts of persons, namely, Bhagwan Dei wife of Kishore, Jitender son of Kishore and Savita wife of Jitender mentioned in the show-cause notice. State has failed to show that the said accounts have been forged and fabricated or result of fraud. Though averments have been made in the written statement but no document is on record to show forgery even the report, which is stated to have been given by FSL, Madhuban has not been placed on record, therefore, adverse inference is required to be drawn against the State. Only one report regarding CD has been annexed on record. In these circumstances, allegations against petitioner are not sustainable.

In view of above, impugned orders are set aside and the writ petition is allowed. However, it will not prevent the State from proceeding against the petitioner in accordance with law.

**(Paramjeet Singh)**  
**Judge**

**January 14, 2015**  
**R.S.**