

CWP No. 24300-2013

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

CWP No. 24300-2013

Date of Decision: 24.02.2015

Himat Singh

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

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. S.K.Bhardwaj, Advocate,
for the petitioner.

Mr. Sandeep S. Mann, Sr. DAG, Haryana.

Mr. Jitender Dhanda, Advocate,
for respondent no.5.

Mr. Sunil Saharan, Advocate,
for respondent no.6.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of direction to respondents no.1 to 2 to remove respondent no.5-Smt. Om Pati from the post of Sarpanch and for issuance of direction to respondents no.2 to 4 to conduct just and fair inquiry for misappropriating funds of the panchayat/govt. amount and preparing false and fabricated documents.

Brief facts of the case are to the effect that a complaint was

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received against respondent no.5 for which inquiry was initially conducted by the Executive Engineer, Panchayati Raj, Hisar who came to the conclusion that Smt. Om Pati, Sarpanch and Ramesh Chand, Gram Sachiv have misappropriated the amount of Rs.17,001,14/-. It is also averred that respondent no.5 is encouraging the people to encroach upon the land of Gram Panchayat. An FIR No.289 dated 23.07.2013 has been registered against respondent no.5-Om Pati, Sarpanch and Ramesh Chand, Gram Sachiv.

In pursuance of notice of motion, respondents put in appearance. Respondents no.2 to 4 filed written statement with the averments that all the money has been spent on the developments works in due course of law and all the development works have been executed properly by respondent no.5. Para no.2 of preliminary objections of written statement reads as under:

“2. That the enquiry report dated 13.12.2013 submitted by XEN, Public Works Department (B & R), Provincial Division No.3, Hisar was properly examined by the answering respondent No.2 and after examination of the enquiry report it was found that all the money has been spent on the development works in due course of law and all the development works have been executed properly by the respondent No.5. After examination of the enquiry report the complaint against the respondent No.5 has been filed being found false by answering respondent No.2 on dated 11.01.2014. A true copy of order dated

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11.01.2014 which was issued to respondent No.5 on dated 22.01.2014 is attached herewith as Annexure R-1/C.”

Respondent no.5 filed separate written statement with the averments that Executive Engineer, Panchayati Raj, Hisar gave findings of financial irregularities against respondent no.5 with *mala fide* intention. Against that, respondent no.5 submitted representation dated 15.07.2013 to the Deputy Commissioner, Hisar and requested for a fresh inquiry. Thereafter, the inquiry was handed over to Executive Engineer, Provincial Division No.3, Public Works Department (B & R), Hisar, who after detailed inquiry dated 13.12.2013 submitted by respondent no.2, exonerated respondent no.5 of the financial irregularities. The police has thoroughly investigated the matter and submitted the cancellation report in the FIR registered against respondent no.5.

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

Admittedly, in the first inquiry conducted by the Executive Engineer, Panchayati Raj, Hisar, respondents no.5 and 6 were found to be guilty. Thereafter, respondent no.5 submitted representation dated 15.07.2013 to the Deputy Commissioner, Hisar to inquire the matter from some independent officer. Upon this, the Deputy Commissioner, Hisar ordered an inquiry into the matter afresh through the Executive Engineer, Provincial Division No.3, Public Works Department (B & R), Hisar, who exonerated respondents no.5 and 6 from the financial

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irregularities. In the first inquiry, it is not mentioned that respondent no.5 was afforded opportunity to represent her case. The Deputy Commissioner, who is competent authority, has found the complaint filed against respondent no.5 to be false.

In view of the fact that inquiry has already been held by the department, this Court cannot go into the findings of fact, recorded by the Executive Engineer, Provincial Division No.3, P.W.D. (B & R), Hisar on the basis of measurement book, which have been accepted by the competent authority.

In view of above discussion, no ground for issuance of a writ in the nature of mandamus is made out.

Dismissed.

Costs made easy.

24.02.2015
parveen kumar

(Paramjeet Singh)
Judge