

CWP No. 23115 of 2015

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 23115 of 2015
Date of Decision : 30.10.2015.

Desh Raj, Ex-Sarpanch

...Petitioner

Versus

State of Haryana and others

...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.

Paramjeet Singh, J.(Oral)

The instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ of mandamus directing respondent No. 2-Deputy Commissioner, Panipat to stay operation of the orders dated 14.10.2015 (Annexures P-4 and P-5) and 22.09.2015 (Annexure P-3) during the pendency of the appeal dated 21.10.2015 (Annexure P-6).

Brief facts of the case are that a complaint was received before the Lokayukta, Haryana with regard to the embezzlement by the petitioner and on the basis of order dated 11.03.2015 passed by the Hon'ble Lokayukta, an

enquiry was conducted by the Additional Deputy Commissioner, Panipat, wherein petitioner was permitted to participate. As per the enquiry, it was found that an amount of ₹13,60,458/- is required to be recovered from the petitioner. In pursuance of that, Block Development and Panchayat Officer, Matlauda, District Panipat issued a notice under Section 53(2) of the Haryana Panchayati Raj Act (hereinafter referred to as 'the Act') specifying that the amount mentioned therein is required to be paid by the petitioner as per the provisions of the Act. It is further contended that since no order has been passed under Section 53(2) by the BDPO, therefore, the letter issued by the Deputy Commissioner, Panipat, who is the appellate authority, to the Block Development and panchayat Officer, is against law.

I have considered the contentions raised by the learned counsel for the petitioner and perused the record.

Section 53 of the Act reads as under :-

"53 Liability of Sarpanch or Panch-(1) Every Sarpanch or a Panch of a Gram Panchayat shall be liable for the loss, waste or misapplication of Gram Panchayat shall be liable for the loss, waste or misapplication of Gram Fund or property belonging to that Gram Panchayat if such loss, waste or misapplication is a consequences of his neglect or misconduct while working as Sarpanch, Up-Sarpanch or a Panch as the case may be.

(2) The Block Development and Panchayat Officer

concerned may, on the application of Gram Panchayat or otherwise, for loss, waste or mis-application of Gram Fund or property belonging to that Gram Panchayat and after giving adequate opportunity to Sarpanch or Panch, as the case may be, to explain, access by order in writing the amount due from him on account of such loss, waste or mis-application of such Gram Fund or property and take necessary steps for its recovery."

The perusal of Section 53 indicates that BDPO is required to issue a notice to the Sarpanch who will have the adequate opportunity to file any reply etc. with regard to the alleged notice and, thereafter steps for recovery, if any, are to be taken. The petitioner has remedy of filing reply to the letter dated 22.09.2015 (Annexure P-3) but the same has not been done. Rather, the petitioner has approached the Deputy Commissioner under Section 53(2) of the Act by way of filing an appeal which is still pending.

From the perusal of record, it is clear that present writ petition is pre-mature. Petitioner was required to file reply to the notice dated 22.09.2015 (Annexure P-3) issued by the competent authority i.e. the BDPO. There is no document on record to show that in pursuance of the notice dated 22.09.2015 (Annexure P-3), petitioner has filed any reply, rather straightway has rushed to this Court.

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In view of the above, the present writ petition is dismissed being pre-mature.

October 30, 2015.
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(PARAMJEET SINGH)
JUDGE