

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

CWP No. 27369 of 2013 (O&M)

Date of decision: 21.05.2015

Jaituni

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Vikram Singh, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana
for the State.

Mr. Gopal Sharma, Advocate for respondent No.3.

Jitendra Chauhan, J. (Oral)

CM-6214-CWP-2015

Keeping in view the averments mentioned in the application, the main case is taken on today's Board of this Court.

CWP-27369-2013

By way of the instant writ petition, under Article 226 of the Constitution of India, the petitioner seeks quashing of the order dated 19.11.2013 (Annexure P-4), passed by respondent No.1 and order dated 29.01.2013 (Annexure P-3), passed by respondent No.2, whereby the petitioner had been removed from the post of Sarpanch.

It is contended that the impugned orders have been

passed in violation of provisions of the Haryana Panchayati Raj Act. The petitioner being the Sarpanch performed her duties upto the satisfaction of all the higher authorities and for the welfare of the village community. The petitioner had undertaken and completed a number of development works but on account of party faction in the village, a false and frivolous complaint had been filed by a co-villager, who was the defeated candidate in the election. The learned counsel further contends that on the basis of false complaint, a show cause notice dated 13.12.2012 (Annexure P-1) was served upon the petitioner with the allegation that the petitioner had spent a sum of Rs. 42,14,759/- without seeking the prior permission of higher authorities. A detailed reply dated 17.12.2012 (Annexure P-2) to the said show cause notice was furnished by the petitioner. On 01.02.2013, the petitioner again received a show cause notice for personal hearing but due to her illness, she could not appear before the authority and ultimately, in the absence of the petitioner, she was removed from the post of Sarpanch, vide order dated 29.01.2013 (Annexure P-3). The impugned orders were passed by ignoring the enquiry report dated 20.11.2012, in which the Committee of four officers had inspected the spot constituted by the Deputy Commissioner and it was found that all 25 works had been completed. The complainant had also admitted that the projects had been completed. As the petitioner was unwell, the assesment report

was also sent through her son in-law. The authorities have totally ignored the fact that all the works have been carried out in the village as the Gram Panchayat passed a valid resolution and estimates were prepared which were got duly verified by the Junior Engineers and Sub Divisional Officer of the concerned Department. Therefore, all the works/projects had been undertaken and completed after adopting a due procedure.

On the other hand, the learned State counsel as well as the learned counsel for respondent No.3 submit that the petitioner was found guilty of misusing the panchayat funds amounting to Rs. 42,14,759/-. The petitioner had withdrawn the aforesaid amount being the interest on the deposit of Gram Panchayat and the petitioner spent the aforesaid amount of interest without the permission of the competent authority. No proper procedure had been adopted by the petitioner. Moreover, the petitioner did not appear on the spot although she was duly informed through Block Development and Panchayat Officer on 31.10.2012.

I have heard the learned counsel for the parties and gone through the record carefully.

It has come on record that the petitioner being the Sarpanch had embezzled the panchayat fund amounting to Rs. 42,14,759/-. The amount of interest was not deposited in the FD by the petitioner, rather, she withdrew the same without the prior

permission from the competent authority. During the course of inquiry against the petitioner, the petitioner neither filed any reply nor appeared before the Inquiry Officer. There is nothing on record that the petitioner was unable to attend the proceedings on a justifiable reason at that time. The petitioner being a Sarpanch has committed a serious irregularity and embezzled the funds meant for the the development of public work. The petitioner has not followed the proper procedure and had utilized the amount on such development works which were not duly approved by the competent authority nor estimates and measurement books were prepared for the same. During the course of inquiry, the petitioner was unable to justify the utilization of the panchayat fund.

Keeping in view the nature of the allegations against the petitioner, finding no merit in the instant petition, the same is hereby dismissed.

21.05.2015

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(JITENDRA CHAUHAN)
JUDGE