

CWP-3163-2015

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

CWP-3163-2015

Date of Decision: 26.08.2015

Mahabir

... Petitioner(s)

Versus

The Financial Commissioner-Cum-Additional Chief Secretary, Haryana
and another

... 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. Manoj Tanwar, Advocate,
for the petitioner.

Mr. Rajneesh Chadwal, DAG, Haryana.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226 and 227 of the Constitution of India for quashing the order dated 06.01.2015 (Annexure P-20) passed by respondent No.1-Financial Commissioner-cum-Additional Chief Secretary, Government of Haryana, Development and Panchayats Department, Haryana and dated 24.01.2014 (Annexure P-18) passed by respondent No.2-Deputy Commissioner, Sonapat.

It is the case of the petitioner that he was elected as Sarpanch of Gram Panchayat, Bhaiswan Khurd, Tehsil Gohana, District Sonapat. The allegations against the petitioner are that he had misused

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old bricks for the construction of streets etc., as a result of which he had siphoned off the amount for which enquiry was ordered. It is the case of the petitioner that in spite of specific direction vide order dated 06.01.2015 (Annexure P-20) passed by respondent No.1, the petitioner was not associated at the time of alleged assessment and reference to the letters dated 03.06.2013 and 10.06.2014 (Annexures P-13 and P-14, respectively) has been made wherein direction was issued that the petitioner should be associated and report be sent. In letter (Annexure P-14), it is mentioned that the petitioner was contacted on his mobile phone, however, the petitioner has pleaded that he was never contacted and never given intimation on phone as he was out of station on that day.

In pursuance of notice of motion, respondents filed reply with the averments that the petitioner was found guilty of embezzlement of funds of Gram Panchayat to the tune of Rs.1,16,429/-. The petitioner was given full opportunity of hearing by the Enquiry Officer as well as by the Deputy Commissioner, Sonapat, who passed the impugned order (Annexure P-18). The petitioner filed appeal before the Financial Commissioner which has also been dismissed vide impugned order dated 06.01.2015 (Annexure P-20). During the course of enquiry, the assessment of the embezzled funds of Panchayat was done in lieu of the development work carried out by the petitioner in the village as a Sarpanch and in re-assessment also the petitioner was found guilty of the embezzlement of the panchayat funds.

I have heard learned counsel for the parties and perused the

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record.

Admittedly, the enquiry was conducted in the absence of petitioner. The principles of natural justice have not been followed. In view of above, the impugned order dated 06.01.2015 (Annexure P-20) is set aside. The Executive Engineer is directed to make fresh assessment of the streets etc. with regard to the use of old bricks and other irregularities, in the presence of the petitioner and submit report to the concerned authority. Thereafter, on receipt of report from the Executive Engineer, the authority concerned will be at liberty to pass appropriate order in accordance with law. The petitioner is directed to be present in village on 04.09.2015 at 10.00 A.M when the Executive Engineer will visit the spot and make fresh assessment. The petitioner shall cooperate in the assessment proceedings. Even if the petitioner does not sign the assessment proceedings, it will be presumed that he was present at the spot. The videography of the entire proceedings shall be prepared at the expense of the petitioner. The petitioner is directed to deposit ₹5,000/- with the SDO (Civil), Sonapat as videography expenses.

Disposed of in the aforementioned terms.

26.08.2015
parveen kumar

(Paramjeet Singh)
Judge