

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.159 of 2015 (O&M)
Date of Decision:- 28.07.2015.

Jitender Kumar

.....Appellant

Versus

Mohan Lal and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

1. Whether Reporters of 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. J.S. Hooda, Advocate for the appellant.

Mr. Rohan Sharma, Advocate for
Mr. Vikram Singh, Advocate for respondent No.1.

Mr. Saurabh Girdhar, Additional A.G. Haryana.

SURYA KANT, J. (ORAL)

1.) This Letters Patent Appeal is directed against the order dated 14.01.2015 of learned Single Judge whereby respondent No.1, the Sarpanch of Gram Panchayat was ordered to be reinstated. He was earlier removed by the Deputy Commissioner, Palwal on the basis of allegations of embezzlement of MANREGA funds and his appeal was rejected by the statutory authorities.

2.) The issue that found favour with the learned Single Judge was that the FSL reports with regard to genuineness of the thumb

impressions of the persons in whose accounts the Government funds were deposited for misappropriation, were still awaited, therefore, it was not justified to remove the Sarpanch at that stage.

3.) In the instant appeal, the following order was passed by us on July 3, 2015:-

“The first respondent is the elected Sarpanch of village Johar Khera (Rakhota) Block and District Palwal. There were allegations of fabrication of Muster Roll and the Gram Panchayat record regarding payments made under the MANREGA Scheme. Based upon an inquiry held into those allegations, the first respondent was removed from the post of Sarpanch. His appeal etc. were dismissed. Those orders were challenged by first respondent before this Court and the learned Single Judge vide order under appeal dated 14.01.2015 has allowed his writ petition though with liberty to the State authorities to proceed against him on the basis of FSL report, if any, that might become available.

Learned counsel for the appellant points out that the first respondent got benefit of doubt on the basis of first report dated 04.03.2013 which was incomplete. According to him, the FSL report was subsequently submitted on 6th and 19th December, 2013 and as per those reports, the allegation of fabricating the muster roll or MANREGA record so as to release payment in favour of non-existent persons have been proved. Those reports have been placed on record as Annexures A-5 and A-7. We, therefore, without expressing any views on merits of the allegations, direct the Deputy Commissioner, Palwal as an interim measure to consider

the FSL reports dated 6th and 19th December, 2013 and/or any other final report that may have been submitted against respondent No.1 and take an appropriate decision as to what action is required to be taken based upon such reports. Before doing so, the Deputy Commissioner shall hear respondent No.1. Such a decision must be taken before the next date of hearing.

List on 28.07.2015.....xxxx.....”

5.) It may thus be seen that on receipt of the FSL reports, we directed the Deputy Commissioner, Palwal to take a fresh decision as to whether respondent No.1 was guilty or not.

6.) The Deputy Commissioner, Palwal has passed a self-speaking order after referring to the FSL reports and has held the first respondent fully guilty of embezzlement of MANREGA funds. The Deputy Commissioner has further held the first respondent unfit to hold the post of Sarpanch and consequently, in exercise of his powers under Section 51 (3) of the Haryana Panchayati Raj Act, 1994, the first respondent has been removed from the post of Sarpanch and the said post has been declared vacant.

7.) The above stated action taken by the Deputy Commissioner, Palwal, in our considered view, renders this appeal infructuous as the appellants have already got substantial relief.

8.) Suffice to observe that if respondent No.1 is aggrieved by the order dated 22.07.2015 of Deputy Commissioner, Palwal, he shall be at liberty to challenge the same before an appropriate forum, in accordance with law.

9.) Similarly if the appellant wants to insist for registration of any criminal case against the first respondent or those who are beneficiaries of the misappropriated funds, he shall be at liberty to approach appropriate forum.

10.) Disposed of.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

July 28, 2015.

sandeep sethi