

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

**CWP no. 15106 of 2015 (O&M)**

**Date of Decision :03.02.2016**

Nanak Chand

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER**

**Present : Ms. Baljit Mann, Advocate for the petitioner**

**Mr. Sudeep Mahajan, Addl. AG, Haryana**

**Mr. B.S.Rana, Sr. Advocate with**

**Mr.Gagandeep Rana, Advocate for respondent no.4**

**MAHESH GROVER, J.**

The petitioner impugns (Annexure P-12) by which the suspension of the respondent as a Sarpanch was revoked.

The petitioner would refer to proviso to Section 51(2) of the Haryana Panchayati Raj Act,1994 (hereinafter referred to as 'the Act') to contend that if a person is involved in an offence involving moral turpitude it would be a case to retain the suspension beyond the statutory period of one month. Proviso is extracted herebelow:-

**Section 51 Suspension and removal of a Sarpanch or**

**Panch - (1) xxx**

**(2) Any Sarpanch or Panch, as the case may be, suspended**

under sub-section (1), shall not take part in any act or proceeding of the Gram Panchayat during the period of his suspension and shall hand over the records, money or any other property of the Gram Panchayat in his possession or under his control-

(i) if he a Sarpanch to a Panch commanding majority in the Gram Panchayat.

(ii) if he is a Panch to Sarpanch;

Provided that the suspension period of a Panch or a Sarpanch, as the case may be, shall not exceed one year from the date of handing over the charge in pursuance of the suspension order except in criminal cases, involving moral turpitude.”

Un-disputably the respondent was involved in an FIR under Sections 420, 468, 471, 120-B, IPC. As per the notification issued by the Chief Secretary, Haryana, the aforesaid sections would come within the ambit of moral turpitude.

The Additional Chief Secretary, Govt. of Haryana who passed the impugned order has merely noticed that “nothing has been found proved against him till today”. The police who had investigated the matter filed a cancellation report which was accepted by virtue of Annexure R-4/3 but a protest petition was filed leading to the passing of Annexure P-8 on 5.8.2014 and proceedings were adjourned to 7.10.2014 for recording of preliminary evidence of the complainant (petitioner).

The petitioner even made a grievance by filing criminal misc. petition bearing no. M-24190 of 2014 in this Court to agitate that BDPO who gave the statement in favour of the cancellation report had no authority and was in fact hand in glove with the respondent. The said petition was disposed of with liberty to the petitioner to oppose the cancellation report submitted before the Judicial Magistrate. Pursuant thereto Annexure P-14 has been passed by the Court of competent jurisdiction summoning the respondents by making the following observations:-

“As essential ingredients for commission of offence punishable under sections 420, 468, 471 and 120-B IPC are made out against above named persons/accused. Hence, it is ordered that Pehlad Singh and Deepak Mangla be summoned to face their trial for the commission of offences punishable under sections 420, 468, 471, 120-B IPC as accused for 5.11.2015 as there are sufficient evidence against them subject to the compliance of section 204(4) Cr.P.C.”

If that be so, then I am of the considered view that all this material regarding registration of FIR against the respondents involving offences of moral turpitude and its impact in terms of the proviso to Section 51 sub clause (2) of the Act need to be determined. Therefore, it would be just and appropriate to set aside the impugned order and remit the case back to the competent authority to take a decision thereon in view of the pendency of the criminal proceedings

against the respondents.

Let needful be done as expeditiously as possible, preferably within a period of 3 months from the date of receipt of the certified copy of this order.

Disposed of.

February 03, 2016  
rekha

**(Mahesh Grover)**  
**Judge**