

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CWP No.16740 of 2015
Date of decision:15.9.2016**

Surinder Singh and others

...Petitioners

Versus

Joint Development Commissioner/Special Secretary, Punjab Government
and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Jatinder Singla, Advocate for the petitioners.

Ms. Monika Chhiber Sharma, DAG, Punjab.

Ms. Naiya Gill, Advocate for respondent No.4.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the impugned appellate order dated 06.05.2015 (Annexure P-9), whereby the appellate authority accepted the appeal of respondent No.4, setting aside her suspension order, petitioners have approached this Court by way of present writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, for quashing the impugned order.

Notice of motion was issued and in compliance thereof reply was filed on behalf of respondent Nos.1 to 3. Separate short reply has been filed on behalf of respondent No.4.

Heard learned counsel for the parties.

Learned counsel for the petitioners, at the very outset, submits that the present case is squarely covered in favour of the petitioners by an order dated 10.08.2016, passed by this Court in **CWP No.10793 of 2016**

(**Kulwinder Singh Vs. State of Punjab and others**). He prays for setting aside the impugned order, by allowing the instant writ petition, in terms of the order dated 10.08.2016 passed by this Court in **Kulwinder Singh's** case (supra).

Learned counsel for the State fairly states that the present case is covered in favour of the petitioners by the order dated 10.08.2016 passed by this Court in **Kulwinder Singh's** case (supra). However, learned counsel for respondent No.4 has tried to support the impugned appellate order (Annexure P-9), contending that framing of charge against respondent No.4, would not *ipso facto* a ground to place her under suspension as Sarpanch. However, this contention raised on behalf of respondent No.4 has been found wholly misplaced and the same is not worth acceptance. It is so said because when respondent No.4 filed her statutory appeal before the appellate authority against her suspension order (Annexure P-7), neither she impleaded the complainant as party nor she brought the material fact of framing of charge against her to the notice of the appellate authority.

It is not in dispute that the learned court of competent jurisdiction had already framed charges against respondent No.4-Gurjeet Kaur (Sarpanch), vide order dated 04.12.2014 (Annexure P-10). Having said that, this Court feels no hesitation to conclude that since respondent No.4 has withheld the above-said material information from the notice of the appellate authority, the impugned order Annexure P-9 cannot be sustained. Further, learned counsel for the petitioners has been found well justified in contending that the present case is covered by the order dated 10.08.2016, passed by this Court in **Kulwinder Singh's** case (supra).

No other argument was raised on behalf of either of the parties.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order is patently illegal and has been found running contrary to the mandatory provisions of law as well as the above-said order passed by this Court in **Kulwinder Singh's** case (supra), the same can not be sustained. Accordingly, the impugned order dated 06.05.2015 (Annexure P-9) is hereby set aside. Consequently, the order dated 01.04.2015 (Annexure P-7) would stand restored. The instant writ petition deserves to be accepted.

Resultantly, with the above-said observations made, the present writ petition stands allowed, however, with no order as to costs.

15.9.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No