

Sr. No.780

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP NO.21249-2013(O&M)

Date of Decision: 07.11.2016

Karamjit Singh @ Kamaljit Singh

.....Petitioner

vs.

State of Punjab and others

.....Respondents

CORAM HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present:- Mr.Shiv Kumar, Advocate for the petitioner.
Mr. Yatinder Sharma, Addl. A. G. Punjab.
Mr. Nakul Sharma, Advocate for respondent no.4.

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RAMESHWAR SINGH MALIK, J

Present writ petition is directed against the order dated 02.09.2013 (Annexure P3) passed by Financial Commissioner – cum-Secretary, Department of Rural Development Panchayat, Punjab whereby he remanded the case to the Director, however, only qua the petitioner.

Notice of motion was issued and in compliance thereof, reply was filed on behalf of official respondents no.1 and 3. Separate reply was filed by respondent no.4. Petitioner filed his replication to the written statement filed by respondent no.4. Thereafter, writ petition was admitted for regular hearing vide order dated 15.11.2013 passed by this Court and operation of the impugned order was stayed. That is how this Court is seized of the matter.

Heard learned counsel for the parties.

It is a matter of record that petitioner was member Panchayat

(Panch) when the allegations against some panches, including the petitioner, as well as the then Sarpanch Sh. Piara Singh were levelled. The matter was inquired into. Vide communication dated 01.11.2012 (Annexure P1), Divisional Deputy Director, Rural Development and Panchayat, Patiala held that no charge was proved against any of the panches. However, the charge was proved only against Piara Singh, the then Sarpanch.

The relevant observations made by the competent authority, in communication (Annexure P1), which is available at page 34 of the paper book, regarding petitioner and other panches, read as under:-

“ So far as Sh.Karamjit Singh, Panch, Sh.Bhupinder Singh, Panch and Sh.Balvir Singh, Panch are concerned, they had expressed their consent by putting signature on resolution submitted for making payment due to verification of muster roll of the labourer put on the work under MANREGA Scheme, by the Sarpanch. Entire payment has been deposited in the accounts of Job Card holders. Job Card of Sucha Singh is also prepared by Sarpanch. Hence, the said panches have passed the resolution for making payment by giving their consent, which was submitted according to the verification of muster rolls by the sarpanch. Hence, connivance of said panches in wrong payment to Sucha Singh is not proved.”

situated panches of the Gram Panchayat were ordered to be reinstated by the Director, Rural Development Panchayat, Punjab vide his order dated 21.11.2012 (Annexure P2) and the relevant part thereof, reads as under:-

“I have perused the report received from the Divisional Deputy Director, Panchayat Patiala and documents produced before me and I have come to this conclusion that the allegations against the panches are not proved. Accordingly, it would not be appropriate to keep them under suspension. Thus Shri Karamjeet Singh, Panch, Bhupinder Singh, Panch and Balbir Singh, Panchm Gram Panchayat Bhatoli Chanoli, Block Nurpur Bedi District Roop Nagar are hereby reinstated due to non proving the charges against them. Case be consigned to record.”

Feeling aggrieved against the above said order Annexure P2, respondent no.4, claiming himself to be the complainant, approached Financial Commissioner, Punjab by way of an appeal against all the panches, including the present petitioner, who were reinstated by the Director. Financial Commissioner vide his impugned order dated 02.09.2013 (Annexure P3) upheld the exoneration of other similarly situated panches.

However, he remanded the matter back to the Director, only qua the petitioner. The sole reason for impugned remand order was that petitioner, in the interregnum, came to be elected as Sarpanch. It is also pertinent to note here that even appeal of the then Sarpanch Piara Singh was

vide order dated 29.07.2013 (Annexure P4).

During the course of hearing, when confronted with the above said facts and circumstances obtaining on the record, learned counsel for the State had no answer and rightly so it being a matter of record. It does not appeal to reason as to how the Financial Commissioner could have remanded the case only qua the petitioner. Petitioner committed no sin in seeking the election as Sarpanch and he came to be elected. It is not in dispute that the earlier allegation against the petitioner was, only during his tenure as panch, which was not proved against him.

It is nobody's case that the said earlier allegation will continue against the petitioner, despite the fact that it was levelled during his tenure as panch. It is also a matter of record that qua other similarly situated panches, who were reinstated along with the petitioner vide Annexure P2 passed by the Director on 21.11.2012, Financial Commissioner upheld the said order of Director, Rural Development Punjab. However, he proceeded on a wholly misconceived and perverse approach, while passing the impugned order, only qua the petitioner and that too when there was no sound reason for the same. Having said that, this Court feels no hesitation to conclude that the Financial Commissioner exceeded his jurisdiction, while passing the impugned order and the same cannot be upheld for this reason as well.

No other argument was raised.

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 passed by the Financial Commissioner has been found suffering from patent illegality and perversity,

02.09.2013 (Annexure P3) is hereby set aside. The 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.

November 07, 2016
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No