

**CWP no.19505 of 2015 (O&M)
and connected case**

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

1. CWP no.19505 of 2015 (O&M)

Mohan Singh

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

2. CWP no.404 of 2016 (O&M)

Mohan Singh

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

Date of decision: 19.8.2016

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE DR. SHEKHER DHAWAN**

Present : Mr.Karan Jund, Advocate for the petitioner

Mr. Gaurav Garg Dhuriwala, DAG, Punjab

Mr. Baldev Sidhu, Advocate for respondent

MAHESH GROVER, J.

This order will dispose of two writ petitions bearing CWP no.
19505 of 2015 and 404 of 2016.

The petitioner herein (in both petitions) was an elected
Sarpanch of village Raipur, District SAS Nagar Mohali and was put under
suspension by the competent authority under Section 20 of the Punjab
Panchayati Raj Act, 1994 with the allegations that he had unauthorisedly
provided a passage to respondent no.8 from Panchayat land and had also cut

7 trees from the cremation ground.

The petitioner pleaded innocence to say that it was in fact respondent no. 6 and 7 who had connived with other Panchs of the village to give undue benefit to respondent no.8 by providing a passage of 15 feet. An inquiry was held which petitioner termed to be sham, indicting him on the basis of which impugned order of suspension was passed.

Noticing the grievance of the petitioner this Court had observed in its notice of motion order passed in CWP no. 404 of 2016 that prima facie the petitioner appears to be placed under suspension for the reasons other than mis-conduct and thus the order of suspension was ordered to be stayed. Pursuant to which the petitioner has been put back as a Sarpanch and is continuing to discharge his duties. The inquiry proceedings being conducted by the authorities were also kept in abeyance and vide orders dated 17.2.2016 and largely on the agreed stand of the parties, Sh.Laxman Sharma, retired District and Sessions Judge Haryana was appointed as an inquiry officer.

The report of the inquiry has been received and a copy was supplied to the learned State counsel. The report establishes the innocence of the petitioner. We may extract the relevant portion of the inquiry report:-

“Thus from the evidence on record it is not proved that the trees mentioned in the complaint were in existence at the cremation ground. So the question of cutting those trees does not arise.

Xxxx

Thus from the evidence discussed above it is

apparent that the Sarpanch has made his best efforts to protect the shamlat land and Govt. land from being encroached. As Mohan Singh Sarpanch was not in a capacity to get a resolution passed for getting the encroachment removed under Section 7 of the Punjab Village Common Land Act, by summoning an application to the Deputy Commissioner (Collector) Mohali, he has done his duty to get the encroachment removed. Further more he filed CWP no. 19505 of 2015 to get the encroachment removed. Thus he has adopted all the possible means available to him for getting the encroachment removed. In these circumstances the finding given by the Block Development Officer that Mohan Singh Sarpanch failed in his duties is not based on the proper appreciation of circumstances of the case.”

We had on the last date of hearing directed the State Govt. to file an affidavit indicating the names of the officers who are responsible in creating an adverse situation for the petitioner.

An affidavit dated 19.8.2016 has been filed today in the Court and the same is taken on record. The names of the following officers have been mentioned as ones responsible for dereliction of their official duties:-

- (i) Sh.Mohinder Singh, Block Development and Panchayat Officer
- (ii) Sh. Malwinder Singh, Block Development and Panchayat Officer
- (iii) Sh. Rajwant Singh, Village Development Organizer
- (iv) Sh. Jasvir Singh, Panchayat Secretary
- (v) Sh. Sucha Singh, Panchayat Secretary.

It has been stated that appropriate notices have been issued to the aforesaid officials to show cause as to why proceedings under the rules be not taken against them.

We are thus of the opinion that in so far as the primary grievance of the petitioner regarding suspension on absolutely false ground (in CWP no. 19505 of 2015)is concerned now stands redressed and his stand vindicated rendering the instant petitions infructuous. Since he is performing his duties as Sarpanch, he shall continue to do so, till of course, the arrangement is extinguished in due process of law.

The petitioner had come to the Court prior to his suspension also i.e by filing petition no. 19505 of 2015 on the basis of apprehension after show cause notice was issued to him. Therefore, both the writ petitions are considered to be disposed of as infructuous however, we would still appoint a date so that the proceedings against the erring officials are concluded and report submitted to this Court.

Office is directed to list the present cases on 21.11.2016 to await the report of the proceedings.

In the meantime, State shall also file an affidavit showing that the Panchayat land stands protected from the unauthorized occupants.

(Mahesh Grover)
Judge

(Shekher Dhawan)
Judge

19.08.2016

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No