

CWP No.19875 of 2015

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

CWP No.19875 of 2015
Date of decision: 06.04.2016

Harpal Singh
.....Petitioner
Versus

State of Punjab and another
.....Respondents

CWP No.20230 of 2015

Manjit Singh
.....Petitioner
Versus

State of Punjab and another
.....Respondents

CWP No.21071 of 2015

Gurmail Kaur
.....Petitioner
Versus

State of Punjab and another
.....Respondents

CWP No.20244 of 2015

Karnail Kaur
.....Petitioner
Versus

State of Punjab and another
.....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

- 1) Whether Reporters of the 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 ?

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Present: - Mr. Nakul Sharma, Advocate, for the petitioner(s).
Mr. B.S. Cheema, DAG, Punjab.

PARAMJEET SINGH DHALIWAL, J.

This common order shall dispose of CWP No.19875 of 2015 titled 'Harpal Singh v. State of Punjab and another', CWP No.20230 of 2015 titled 'Manjit Singh v. State of Punjab and another', CWP No.21071 of 2015 titled 'Gurmail Kaur v. State of Punjab and another' and CWP No.20244 of 2015 titled 'Karnail Kaur v. State of Punjab and another' filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the order dated 12.05.2015 (Annexure P-3) passed by respondent No.2 – Director Rural Development and Panchayat, Punjab, and order dated 26.08.2015 (Annexure P-10) passed by respondent No.1 – Special Secretary-cum-Joint Development Commissioner (exercising the powers of the Government under the Punjab Panchayati Raj Act, 1994), whereby appeals filed by the petitioners against the orders dated 12.05.2015, have been dismissed, as common questions of law and facts are involved in these writ petitions.

Brief facts of the case being extracted from CWP No.19875 of 2015 are that petitioners were elected as Panches of Village Patti Sekhwan, Block and District Barnala. District Development and Panchayat Officer, Barnala, made a report against the petitioners alleging that the petitioners are not attending the meetings of gram panchayat and are not cooperating in development of the Village, also they are misusing

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their powers. Said report was sent vide letter dated 13.02.2014 to respondent No.2 – Director Rural Development and Panchayat. Respondent No.2 marked regular enquiry to Additional Deputy Commissioner (D), Barnala. Additional Deputy Commissioner (D), Barnala, after completing regular enquiry submitted report dated 26.11.2014 (Annexure P-1) stating that allegations against petitioners stand proved. On the basis of regular enquiry report dated 26.11.2014, a show cause notice dated 16.12.2014 was issued to the petitioners and the petitioners filed their detailed replies dated 05.01.2015 (Annexure P-2) along with requisite documents. Thereafter, petitioners were suspended from the posts of Panches by respondent No.2 vide order dated 12.05.2015 (Annexure P-3). Aggrieved against the order dated 12.05.2015 (Annexure P-3), petitioners filed appeals before respondent No.1. Respondent No.1 vide order dated 20.05.2015 (Annexure P-5), after hearing the parties, stayed the order dated 12.05.2015. Thereafter, respondent No.1 vide order dated 28.05.2015 vacated the stay allegedly without affording opportunity of hearing to the petitioners and adjourned the case for 22.07.2015. Against the order dated 28.05.2015, petitioners filed writ petitions before this Court whereby order dated 28.05.2015 was stayed by this Court vide order dated 08.06.2015 (Annexure P-9). In the meantime, respondent No.1 vide order dated 26.08.2015 (Annexure P-10) dismissed the appeals filed by the petitioners. Hence, these writ petitions.

In pursuance of notice of motion respondents have filed their

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reply averring that petitioners were not taking interest in the development works of the village and they were not attending the meetings. Therefore, they have rightly been suspended by affording full opportunity of hearing.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioners vehemently contended that allegations against the petitioners are to the effect that they did not attend the meetings dated 18.11.2013, 30.11.2013 and 19.12.2013, thereafter on 17.01.2014 petitioners appeared in the meeting and later on went away from the meeting. Learned counsel for the petitioners contended that every document prepared is fake. In fact, on 16.12.2013 father of the Sarpanch died and 19.12.2013 was kept for collection of ashes after cremation of the father of the Sarpanch. As such there was no notice for meeting dated 19.12.2013. Learned counsel for the petitioners further contended that under Section 20(1)(d) of the Punjab Panchayati Raj Act, 1994 (for short 'the Act'), a Panch can only be removed, if he remains absent for more than two consecutive months from the meetings of the Gram Panchayat without reasonable cause. Learned counsel for the petitioners further contended that allegedly the agenda for the meeting to be held on 18.11.2013 was sent on 15.11.2013 and agenda for the meeting to be held on 30.11.2013 was sent on 25.11.2013 and agenda for the meeting to be held on 19.12.2013 was sent on 07.12.2013. As per Section 23(3) of the Act, seven days clear

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notice for an ordinary meeting and three days clear notice for a special meeting is required to be given. Thus, no valid notice was issued as the alleged meetings were not special meetings but were ordinary meetings. In fact, petitioner had been attending several meetings and had been signing various resolutions. Learned counsel for the petitioners contended that, therefore, the impugned orders are not sustainable in the eyes of law.

On the other hand, learned counsel for the State vehemently contended that petitioners have not attended three meeting in spite of the agenda having been sent to them. As such they have rightly been suspended from performing the duties as Panches.

I have considered the contentions raised by learned counsel for the parties.

It will be appropriate to reproduce Sections 20(1)(d) and 23 of the Act, which read as under: -

“20. Suspension and removal of Panch and Sarpanch (1)
The Director may, after such enquiry as he may deem fit, remove any Sarpanch or Panch: -

xxx xxx xxx xxx xxx xxx

(d) who, without reasonable cause, absents himself for more than two consecutive months from the meetings of the Gram Panchayat,

xxx xxx xxx xxx xxx xxx

23. Meeting of Gram Panchayat. (1) *The meeting of the Gram Panchayat shall be public and shall be held at least once a month at the office of the Gram Panchayat or at some other*

public place within the Gram Sabha area for which It is established and at such time and date as the Sarpanch may determine and notify.

(2) The Sarpanch, when required in writing by a majority of the Panches to call a special meeting, shall do so within three days failing which these Panches, shall, with the previous approval of the prescribed authority, be entitled to call a meeting after giving a week's notice through the Panchayat Secretary to the Sarpanch and the other Panches.

(3) Seven clear days' notice of an ordinary meeting and three days' clear notice of a special meeting specifying the place, date and time of such meeting and the business to be transacted thereat, shall be given by the Secretary to the Panches and such officers as the State Government may prescribe, and affixed on the notice board of the Gram Panchayats.”

Under Section 23(3) of the Act seven days' clear notice is required to be given for ordinary meeting and three days' clear notice is required to be given for special meeting. In the impugned orders it has not been specifically mentioned whether the meetings in question were special. Therefore, these are to be treated as ordinary meetings. As such, seven days' clear notice was required to be given. No document has been annexed with the reply from which it can be made out that notices were issued by the Sarpanch or other officials to the petitioners on specific dates and whether they were validly served or not. It further appears that no proper enquiry based upon the facts of the case has been conducted. It is not mentioned in the order of the Special Secretary that

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as to when the notice for holding the meetings was given. All that is mentioned is that meetings were held on 18.11.2016, 30.11.2013 and 19.12.2013. Perusal of the translated as well as vernacular notices attached with the file reveals that there is no date under the signatures of Jitpal Singh Chowkidar. On the backside of notices it is mentioned that Gurmail Kaur, Panch refused to append the signatures and Harpal Singh, Panch was not available at home. None of the notices bear the dates when Jitpal Singh, Chowkidar had approached the petitioners. In view of this, it appears that there was no valid service upon the petitioners.

In view of above, impugned orders are set aside and writ petitions are allowed. However, authorities will be at liberty to proceed in accordance with law after specifying the dates in show-cause notices.

(Paramjeet Singh Dhaliwal)
Judge

April 06, 2016
R.S.