

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.21041 of 2016
Date of decision: 06.10.2016

Dharambir and another

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Jagdish Manchanda, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present writ petition is directed against the order dated 16.09.2016 (Annexure P-17) passed by respondent No.1, whereby respondent No.4 was reinstated as President of the Municipal Committee, Pundri.

Heard learned counsel for the petitioners.

Petitioners claim themselves to be the complainants. On their complaint, the matter was enquired into against respondent No.4. During the course of enquiry, respondent No.4 was placed under suspension. After conclusion of the enquiry, report was submitted and thereafter, the matter was reconsidered for the purpose of reinstatement of respondent No.4.

After going through the record, respondent No.1 came to the conclusion that respondent No.4 did not cause any encroachment. Operative part of the impugned order dated 16.09.2016 (Annexure P-17) passed by respondent No.1, which is available at page 80 of the paper book, reads as under: -

“After carefully going through the record, arguments of parties and age of construction and the fact that house was built by his father

and further fact that when the objection was raised regarding encroachment of Municipal Land by his father, Mahavir Singh left that house sufficiently proves that Mahavir Singh was never a party in the process of encroachment and he was living there as a member of a joint family. Therefore, Mahavir Singh deserves to be given a chance to disassociate himself from the house on encroached land. He has himself disassociated from the encroachment and hence allegation leveled by the complaint deserves to be dropped and he is to be reinstated with immediate effect by setting aside order dated 28/29.3.2016 passed by Director, Urban Local Bodies. Ordered accordingly.”

From the reading of abovesaid part of the impugned order, it becomes crystal clear that if any encroachment was caused, it was caused by Sh. Babu Ram, father of respondent No.4. Respondent No.4 has disassociated himself by leaving the said house on his own. Respondent No.4 was no more living in the said house. Since he was never party to the alleged action on the part of his father causing any kind of encroachment, respondent No.1 held, while passing the impugned order, that respondent No.4 cannot be punished for the fault, if any, of his father. This finding recorded by respondent No.1 has been found factually correct and legally justified, because of which the impugned order deserves to be upheld.

In fact, petitioners want to settle their personal score with respondent No.4, because all three came to be elected as members of the same Municipal Committee. Thereafter, respondent No.4 was further elected as President of the Municipal Committee. This was the reason that petitioners have

been in the search of one or the other occasion to embarrass respondent No.4 in one way or the other so that he may not function smoothly as President of the Municipal Committee. Having said that, this Court feels no hesitation to conclude that respondent No.1 committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioners could not point out any patent illegality or perversity in the impugned order passed by respondent No.1. No prejudice, of any kind whatsoever, has been caused to the petitioners, by passing the impugned order, which may warrant interference at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India.

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 respondent No.1 has not been found suffering from any patent illegality, the same deserves to be upheld. The writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, instant writ petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

06.10.2016
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No