

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

CWP No.27264 of 2015

Date of Decision : 10.2.2016

Harbhajan Singh Sarpanch and others

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

....

Present: Mr. Kewal Singh, Advocate
for the petitioners.

MAHESH GROVER.J.

This is a petition under Article 226 of the Constitution of India praying for issuance of a writ in the nature of mandamus directing the respondents No.1 and 2 to take action against respondents No.3 to 8 for not participating in the meetings called by the Sarpanch in terms of the provisions of the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act') which warrants initiation of action in the event of the elected representatives not participating in the meeting. The petitioner refers to Section 20(1) of the Act which contemplates suspension and removal of Panch and Sarpanch. Section 20 is extracted herebelow :-

**“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 :-

- (a) on any of the grounds mentioned in section 208; or
- (b) who refuses to act or becomes incapable or acting; or
- (c) who, being a Sarpanch, without reasonable cause, fails to hold meetings of the Gram Panchayat as required under sub-section (1) of section 16 for a period of two consecutive months; or
- (d) who, without reasonable cause, absents himself for more than two consecutive months from the meetings of the Gram Panchayat; or
- (e) who during his present terms of office or that immediately preceding it, has, in the opinion of the Director, been guilty of misconduct in the discharge of his duties; or
- (f) whose continuance in office is undesirable in the interests of the public.

Provided that before the Director orders the removal

of any Sarpanch or Panch under this sub-section, the reasons for the proposed removal shall be communicated to him and he shall be given an opportunity of tendering an explanation in writing.”

The petitioner makes a specific reference to Section 20 (c) which states that any person who being a Sarpanch, failed to hold meetings of the Gram Panchayat without any reasonable cause for a period of two consecutive months would be liable for suspension. Clause (d) of sub-section (1) of Section 16 talks of a Sarpanch or Panch being liable for suspension in case he does not make himself available for more than two consecutive months for the meetings of the Gram Panchayat without offering any sufficient cause. Petitioner No.1 was elected as Sarpanch after the elections of the Gram Panchayat were concluded on 3.7.2013. Petitioners No.2 to 4 are Panches along with respondents No.3 to 8.

During the course of hearing, learned counsel for the petitioners asserted that ever since the elections respondents No.3 to 8 have not cooperated by attending the meetings.

When the petition was initially put up before this Court, it was deficient in material as far as book proceedings of the Gram Panchayat were concerned which were subsequently placed on record upon a query of Court. The book proceedings do

not substantiate the grievance of the petitioners rather falsify the contention raised before the court as in most of the meetings respondents No.3 to 8 or some of them have been marked present.

When confronted with this situation, learned counsel for the petitioners tried to wriggle out of the situation to state that they are not cooperating with the petitioners.

In a democratically elected body there is a room of dissent and it was not necessary for all the members to toe the line, a representative would dictate. The grievance of the petitioners is, therefore, misplaced and the petition is obviously a ploy to stifle the voice of dissent within the Panchayat. It is a motivated petition intended to use the courts by abusing the process of law. There is no reason to interfere when the petitioners have come on a ground which obviously stands falsified from the material on record. Consequently, the petition is dismissed with Rs.20,000/- as costs.

At this stage, learned counsel for the petitioners prays for permission to withdraw the instant petition. Permitted to do so.

Dismissed as withdrawn.

10.2.2016
dss

(MAHESH GROVER)
JUDGE