

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

**LPA No.1656 of 2016
Date of decision: 01.09.2016**

Gurjant Singh

.....Appellant

Vs.

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: Mr. Rajeev Kawatra, Advocate for the appellant.

Ajay Kumar Mittal,J.

1. This Letters Patent Appeal has been filed against the judgment dated 25.7.2016 passed by learned Single Judge whereby the writ petition filed by the appellant-petitioner has been dismissed and the order dated 12.4.2016, Annexure P.8 passed by respondent No.1 dismissing the appeal filed by the appellant-petitioner against the suspension order has been upheld.

2. A few facts relevant for the decision of the controversy involved as narrated in the appeal may be noticed. The appellant was elected as a Sarpanch of Gram Panchat of Dayalpura Bhaika, Block Bhagta Bhaika, District Bathinda in the general election held in the year 2013. The appellant

is affiliated to Congress party and won his election as Sarpanch with the support of congress party workers. For the last more than two years, pressure was on the appellant by the ruling party to quit the Congress party but he did not agree. Resultantly, the appellant was threatened to face the consequences. On 16.8.2015, one Fateh Singh, resident of Village Dayalpura committed suicide. Residents of the said Village and other surrounding villages assembled and kept the dead body of the deceased on the road to raise protest. There was a clash between the Punjab police and the protesting villagers. FIR No.130 dated 16.8.2015 was registered at Police Station, Dayalpura, District Bathinda under sections 307, 353, 186, 332, 188 and 283 IPC against 20 persons by name and 100/130 unknown persons. The appellant being representative of opposition party in Punjab was also made one of the accused in the FIR inspite of the fact that he was not at all involved in any illegal activity. The appellant was arrested and was put behind bars. He was granted regular bail on 15.10.2015 by the trial court and the trial is still going on. On 23.11.2015, the appellant received a letter by the Block Development and Panchayat Officer (BDPO), Bhagta Bhaika i.e. respondent No.4 to the effect that no meetings of Gram Panchayat were conducted between 22.7.2015 to 16.10.2015 and different pages of the proceedings register had been kept empty. It was also alleged that few payments had been made by putting resolution on open papers which should have been entered in the proceedings register. The appellant was given 15 days' time to explain in writing. The appellant submitted a letter on 8.12.2015 stating that he was in judicial custody from 16.8.2015 to 19.10.2015 and thus he was not able to conduct meeting of Gram Panchayat during that period. It was also brought to the notice of respondent No.4 that it was the responsibility of the Panchayat Secretary to maintain and compile

the records of Gram Panchayat. It was further submitted that whenever meeting of Gram Panchayat was called, due to political pressure of the ruling party, the Panchayat Secretary had not handed over the proceedings register to the appellant due to his involvement in the FIR. According to the petitioner, merely three days after the issuance of letter dated 23.11.2015 by respondent No.4 to the appellant, respondent No.2 sent a report dated 26.11.2015, Annexure P.5 to respondent No.3 i.e. BDPO, Bathinda mentioning therein various allegations against the appellant. It was averred that neither any copy of the report was supplied to the appellant nor any opportunity of hearing was given to him. Respondent No.2 passed order dated 2.2.2016 suspending him from the post of Sarpanch. The appellant filed appeal against the said order which was dismissed vide order dated 12.4.2016, Annexure P.8. Aggrieved by the order, the appellant approached this Court through CWP No.13900 of 2016 which was also dismissed vide impugned order dated 25.7.2016 passed by the learned Single Judge upholding the impugned orders passed by the respondents. Hence the instant Letters Patent Appeal by the appellant.

3. We have heard learned counsel for the appellant.

4. It has been categorically recorded by the learned Single Judge that the appellant is facing criminal charge as per FIR dated 16.8.2015 under sections 307, 353, 186, 332, 188 and 283 IPC. However, copy of the FIR had not been placed on record by the appellant. With regard to the allegation against the appellant qua withdrawal of money from the panchayat funds without valid resolutions, it has been recorded that the appellant being Sarpanch did not take necessary steps for keeping the records of the Panchayat in order and merely put the blame on the Panchayat Secretary. He did not file any complaint against the Panchayat Secretary. After examining

the entire facts and circumstances of the case, the impugned orders passed by the respondent authorities were upheld. Consequently, the writ petition filed by the appellant-petitioner was dismissed. Even direction was given for early conclusion of the regular enquiry pending against the appellant. The relevant findings recorded by the Learned Single Judge read thus :-

“It is a matter of record that the petitioner is facing criminal charge vide FIR No.130 dated 16.08.2015 registered at Police Station Dayalpura, District Bathinda, under Sections 307, 353, 186, 332, 188 and 283 IPC. However, copy of this FIR has not been placed on record by the petitioner for the reasons best known to him. At this stage, learned counsel for the petitioners submits that in fact copy of FIR has not been placed on record, because it was totally immaterial in view of the frivolous allegation leveled against the petitioner. Be that as it may, in the absence of copy of FIR, this Court cannot presume anything in favour of the petitioner in this regard and no favourable inference can be drawn.

Coming to the second equally serious allegation against the petitioner regarding withdrawal of money from the Panchayat funds without validly passed resolutions, petitioner cannot claim innocence putting the blame on the Panchayat Secretary. It is so said because if the Panchayat Secretary was not performing his duty properly, it was least expected from the petitioner, being Sarpanch of the village, that he would have immediately made appropriate complaint before the higher authorities, for taking suitable action against the Panchayat Secretary. However, petitioner failed to do so again for the reasons best known to him.

No such complaint or representation has been placed on record to show that the petitioner did his level best in this regard. Had the petitioner moved appropriate complaint at the relevant point of time and thereafter appropriate action might not have been taken by the competent authority against the Panchayat Secretary, the matter would have been different.

Further, the plea of discrimination is also not available to the petitioner, because the Secretary to Government of Punjab-respondent No.1 has found the Panchayat Secretary also responsible and observed that the matter needs to be probed and enquired into against the Panchayat Secretary as well.”

Learned counsel for the appellant has not been able to show that the observations of the learned Single Judge are erroneous.

5. Adverting to the judgments relied upon by the learned counsel for the appellant in *Raghubir Singh, Panch vs. State of Punjab and others*, 2013(1) SCT 527 and *Jagtar Singh vs. State of Haryana and another*, 2004(1) PLR 368, it may be noticed that there is no quarrel with the enunciation of legal proposition therein. However, a plain reading of these pronouncements clearly spells out that the factual matrix therein was different. It was observed in *Raghubir Singh's* case (supra) that the allegations made in the DDR and the FIR would not virtually reveal allegations against the petitioner. Only allegation is that the petitioner therein with his mistake had tried to make the atmosphere of the Village tense and with the intervention of police on spot, no untoward incident had happened. Herein, the appellant-writ petitioner has without any justified cause avoided placing the FIR on the record for the perusal of the Court. Further, in *Jagtar Singh's* case (supra), again the charge against the Sarpanch was failure to take action for getting the decrees of civil courts set aside which were passed prior to the election of the Sarpanch especially when earlier body of panchayat had allowed the decrees to become final by not challenging the same during the period of limitation. In the present case, there are serious allegations against the appellant. The appellant has not tendered any satisfactory explanation in omitting to place copy of the FIR on record. Criminal charge is pending against him and even allegation with

regard to misappropriation of Panchayat funds is also there against the appellant. The position in the present case is different. Thus, the appellant cannot derive any advantage from the decisions relied upon.

6. In view of the above, we do not find any ground to interfere with the judgment dated 25.07.2016 passed by the learned Single Judge. Consequently, finding no merit in the appeal, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

September 01, 2016
'gs'

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes