

LPA No.2483 of 2016 (O&M)

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

LPA No.2483 of 2016 (O&M)
Date of decision: 22.12.2016

Kamaljit Kaur and others
..... Appellants

Versus

State of Punjab and others
..... Respondents

LPA No.2484 of 2016 (O&M)

Kamaljit Kaur and others
..... Appellants

Versus

State of Punjab and others
..... Respondents

LPA No.2485 of 2016 (O&M)

Kamaljit Kaur and others
..... Appellants

Versus

State of Punjab and others
..... Respondents

LPA No.2486 of 2016 (O&M)

Kamaljit Kaur and others
..... Appellants

Versus

State of Punjab and others
..... Respondents

LPA No.2483 of 2016 (O&M)

LPA No.2487 of 2016 (O&M)

Kamaljit Kaur and others

..... Appellants

Versus

State of Punjab and others

..... Respondents

LPA No.2488 of 2016 (O&M)

Kamaljit Kaur and others

..... Appellants

Versus

State of Punjab and others

..... Respondents

LPA No.2489 of 2016 (O&M)

Kamaljit Kaur and others

..... Appellants

Versus

State of Punjab and others

..... Respondents

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

Present: Mr. Raj Kumar Garg, Advocate,
for the petitioner(s).

RAMENDRA JAIN, J.

This order shall dispose of aforesaid seven Letters Patent Appeals, as all of these have arisen from the common order passed by learned Single Judge. However, the facts are being extracted from LPA No.2483 of 2016.

2. Put pithily, according to the appellants, appellant No.1 was

LPA No.2483 of 2016 (O&M)

elected as Sarpanch and appellants No.2 and 3 were elected as Panches along with respondent No.6 and other five Panches, in the Panchayat election held in July 2013. After some time, respondent No.6 started working against the interests of the Village Panchayat by making one faction of seven members and stopped attending the meetings of the Gram Panchayat, despite service of notices. Appellant No.1 filed a complaint on 01.10.2015 before respondent No.2 against respondent No.6 and other six Panches for not cooperating in the development work due to their absence in the meetings of the Gram Panchayat. Respondent No.2 on the said complaint, marked an enquiry to respondent No.3, who held a detailed enquiry and submitted his enquiry report to the effect that seven Panches named in the complaint, deliberately and intentionally were not cooperating with the Sarpanch as they were not attending the meetings due to which the development works of the Village had stopped. Resultantly, the continuance of these Panches on their posts was not in the interest of the public and the Panchayat. On the basis of report received from respondent No.3, respondent No.2 placed respondent No.6 and other six Panches under suspension vide order dated 02.02.2016 (Annexure P-7). However, against the said order dated 02.02.2016, appeal was accepted and order of suspension of respondent No.6 and other six Panches was set aside by respondent No.1 vide order dated 25.05.2016 (Annexure P-10). Aggrieved against the order dated 25.05.2016, the appellants filed CWP No.18071 of 2016 and other connected writ petitions, which have been dismissed vide order dated 02.09.2016 and 05.09.2016.

LPA No.2483 of 2016 (O&M)

under Clause X of the Letters Patent for quashing the order dated 25.05.2016 passed by respondent No.1 and the orders dated 02.09.2016 and 05.09.2016 passed by learned Single Judge.

4. Learned counsel for the appellants submitted that respondent No.1 has erroneously and illegally set aside the order passed by respondent No.2, whereby respondent-Panches were placed under suspension. The order passed by respondent No.1 has also wrongly been upheld by learned Single Judge, which is not sustainable in the eyes of law. The respondent-Panches were rightly suspended by respondent No.2 as they were not cooperating with the Sarpanch and were working against the interests of the Village and the Panchayat.

5. After perusing the paperbook and giving our thoughtful consideration to the submissions made by learned counsel for the appellants, we find that all the appeals are devoid of any merit, because undisputedly the order of suspension was passed without hearing the respondent-Panches which is against the principles of natural justice. It is well settled that nobody should be condemned unheard. More so, from the order of suspension, it appears that respondent No.2 – Director, Rural Development and Panchayat Department was hand in glove with the appellants. The relevant observations of the Secretary to Government of Punjab, Department of Rural Development and Panchayats, Chandigarh, while accepting the appeal and quashing the order of suspension passed by the Director read thus: -

“I have considered the pleadings of the parties and record of the case has been perused. Surprisingly, the Director initially

LPA No.2483 of 2016 (O&M)

issued a show cause notice to the appellant on 02.02.2016 and later on, on the same date the appellant was suspended from the post of panch. The suspension order was issued by the office of Director on 08.03.2016. This suspension order does not find any mention of the show cause notice which was issued on 02.02.2016. This fact implies that the appellant was not given chance to explain his version. Rather, he has been condemned unheard. Furthermore, the fact that first a notice was issued but instead of waiting for the appellant to reply, the letter was suspended on the same very date. This smacks of high handedness and does not reflect good or the working of the office of the Director. It is also observed that the allegation 'established' by the DDPO prior to the suspension order, is only an eye wash. The DDPO relied only on the version of the Sarpanch, respondent no.4 and that of the Panchayat Secretary. He did not try at all to go a bitter deeper into the allegations made by the panches (including the appellant) against the Sarpanch and her father. The 'enquiry officer' did not utter a single word on the correctness or otherwise of these allegations. Such a report has no meaning and the Director should have simply filed it. But that was not to be.

In view of the above, I do find merit in the appeal. The impugned order is not sustainable in the eyes of the law. The appeal is therefore accepted and the impugned order is set aside. The allegation proved by the District Development and Panchayat Officer, Jalandhar was not of the emergency nature and when the show cause notice was issued, the Director should have waited the response of the appellant. Therefore, by no means the suspension order is justifiable at all. Accordingly, the instant appeal is accepted and the order dated 02.02.2016 passed by the Director is quashed.”

6.

The said conclusion of the appellate authority was not shown to

LPA No.2483 of 2016 (O&M)

be erroneous by the learned counsel for the appellants.

7. In view of above, we do not find any illegality or perversity in the impugned orders.

8. Dismissed.

9. Since the appeals have been dismissed on merits, the applications filed under Section 5 of the Limitation Act for condonation of delay in filing the appeals are left open.

(RAMENDRA JAIN)
JUDGE

December 22, 2016
R.S.

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No