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

CWP-16818-2015

Date of decision : 24.04.2017

Avtar Singh

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Amandeep Kansal, Advocate
for the petitioner.

Mr. Yatinder Sharma, Addl. A.G., Punjab.

Mr. H.S. Multani, Advocate
for respondent No.6.

AMIT RAWAL, J. (ORAL)

Mr. Amandeep Kansal, Advocate has put in appearance on behalf of the petitioner and filed his vakalatnama with no objection from previous counsel, namely, N.P.S. Mann, Advocate. The same is taken on record.

The petitioner-Avtar Singh contested the elections of the Gram Panchayat, Ralla, held in the year 2013, but was not successful and filed election petition against respondent No.6 and also could not succeed. The petitioner has filed the present writ petition seeking quashing of the order dated 04.12.2013 (Annexure P-5) of respondent No.3/Divisional

Deputy Director, vide which, the earlier order dated 18.11.2013 (Annexure P-2) has been withdrawn, whereby respondent No.6 is stated to have been submitted a resignation, which was accepted and as well as for quashing of the order dated 13.08.2014 (Annexure P-7) passed by respondent No.2/Director-cum-Special Secretary, Department of Rural Development and Panchayat, Punjab, whereby the appeal filed against the order dated 04.12.2013 (Annexure P-5) has been dismissed and with further prayer for upholding the order dated 18.11.213 (Annexure P-2).

Mr. Amandeep Kansal, learned counsel appearing on behalf of the petitioner submits that in view of the elections held for the Gram Panchayat, Ralla, respondent No.6-Sewak Singh, became Sarpanch in the year 2013. However, on 13.10.2013, he submitted his resignation to respondent No.5/Block Development and Panchayat Officer, who recommended the case of the petitioner and sent to the Divisional Deputy Director, Ferozepur vide order dated 13.10.2013. Respondent No.3/Divisional Deputy Director vide order dated 18.11.2013 (Annexure P-2) accepted the resignation of respondent No.6.

He further submits that the resignation can only be withdrawn within a period of 15 days in view of the provisions of Section 17 of the Punjab Panchayati Raj Act, 1994 (for short 'the 1994 Act'). Thereafter, respondent No.2/Director-cum-Special Secretary, Department of Rural Development and Panchayat, Punjab, vide letter dated 29.11.2013 (Annexure P-3), sent the case to the Deputy Commissioner, for de-notification of the name of the Sarpanch to the Election Commission for holding the elections. Respondent No.6 submitted an application to

respondent No.3 that he had not resigned and somebody else had signed his resignation letter. Divisional Deputy Director/respondent No.3 sought a report from the District Development and Panchayat Officer/respondent No.4 vide letter dated 25.11.2013 and respondent No.4/DDPO vide letter dated 03.12.2013 (Annexure P-4) gave the report that the resignation was not given by respondent No.6, but the report is bereft of the comparison of the signatures and therefore, could not have been relied upon. Resultantly, order dated 03.12.2013 (Annexure P-4), withdrawing the resignation of respondent No.6 and subsequent order challenging the same, are not sustainable in the eyes of law. If at all respondent No.6 is aggrieved, he could have availed the remedy of appeal, even an FIR bearing No.4 dated 11.01.2014 under Sections 420, 465, 467, 468, 471 of the Indian Penal Code, at Police Station Joga, District Mansa, was registered against the petitioner, but the cancellation report has been accepted. All these factors reveal that the order of the authorities/respondent(s), dismissing the appeal, is not sustainable being vitiated in law and do not stand on the touchstone of reasonability, much less, transparency, thus, urges this Court for setting aside the same.

Mr. H.S. Multani, learned counsel appearing on behalf of respondent No.6 submits that the writ petition is not maintainable owing to the non-challenge of the order dated 03.12.2013 (Annexure P-4) as the resignation letter was never received by any of the department, much less, the Officer concerned either through registered post or in the Diary Register. It is, in this aspect of the matter, an FIR, aforementioned, was registered, but the cancellation report is objected to by respondent No.7.

The petitioner is hellbent to down the image of respondent No.6 as respondent No.6 was become Sarpanch. Any legal order can always recall and therefore, the rigors of Section 17 of the 1994 Act would not come into rescue, thus, urges this Court for dismissal of the writ petition.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no merit and force in the submissions of Mr. Amandeep Kansal, Advocate, for, there is no challenge to the inquiry report dated 03.12.2013 (Annexure P-4) conducting by Block Development and Panchayat Officer, Mansa/respondent No.5 with regard to the alleged resignation of respondent No.6. The inquiry report reveals that respondent No.6-Sewak Singh had never sent his resignation through registered post or by hand, much less, not received in the Diary Register of office of Divisional Deputy Director, Ferozepur. In this regard, an FIR, aforementioned, was also registered, though, cancellation report was accepted.

Keeping in view the aforementioned facts, I do not intend to further delve upon the aspects of the matter as it would take away the rights of the party concerned, but the fact remains that rigors of Section 17 of the 1994 Act, withdrawing of the resignation letter, would not come into play, for, it is a case of non-resignation having been submitted by respondent No.6. Had it been so perhaps the petitioner could not have taken the aid of the aforementioned provisions. The examination of the matter by an Expert would be inconsequential, once a person, who has been elected and had become Sarpanch, only few days thereafter, could not have submitted such resignation. This aspect is not comprehensible. I am of the view that the

impugned orders, recalling of the order and dismissal of the appeal, are perfectly legal and justified and do not call for interference, much less, cannot be said to be arbitrary and opaque.

No ground is made out for interference.

Dismissed.

24.04.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No