

CWP No.16196 of 2017

[1]

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

**CWP No.16196 of 2017
Date of decision:26.07.2017**

Ashok Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Shailendra Sharma, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner is Sarpanch of the Gram Panchayat, Naharpur, Tehsil Jagadhri, District Yamunanagar. He has challenged the orders dated 16.05.2017 passed by the Deputy Commissioner, Yamunanagar and dated 07.07.2017 passed by the Appellate Authority, by which he has been put under suspension during the pendency of regular inquiry against him.

The allegation against the petitioner is that he had misappropriated the panchayat funds while executing the development works of installation of submersible pump, purchase of two water coolers, fifty dustbins and did not deposit ₹1,20,000/- of fine in the panchayat fund, received in view of theft of bricks of stadium from the offenders. A preliminary inquiry was held and the petitioner was served with a notice by the Deputy Commissioner as to why he should not be placed under suspension for holding regular inquiry and vide order dated 16.05.2017, while exercising his powers under Section 51 of the Haryana Panchayati Raj Act, 1994 (hereinafter referred

to as the “Act”), the Deputy Commissioner placed him under suspension, directing not to participate in any proceedings of the Panchayat in future and hand over all the records and movable/immovable properties of the Panchayat to the Panch having majority.

Aggrieved against that order, the petitioner filed statutory appeal under Section 51(5) of the Act before the Appellate Authority but his appeal was also dismissed. It has been found that besides the allegation of embezzlement of public funds, an FIR No.38 dated 09.04.2017, under Sections 409 and 420 IPC has also been registered against the petitioner at Police Station, Jathlana, District Yamunanagar, and the offence involved in the said FIR comes under the category of moral turpitude. It has also been found that the petitioner had deposited the money, stated to be embezzled, under protest.

Counsel for the petitioner has submitted that the respondents have overlooked the resolution dated 10.02.2017 passed by the Gram Panchayat, Naharpur and the earlier inquiry conducted through the Deputy Chief Executive Officer, Zila Parishad, Yamunanagar, who submitted his report dated 30.01.2017 reporting that the charges were not proved against the petitioner and even for charge no.4, the Panchayat Secretary was found responsible and the second inquiry was conducted on the same set of allegations, without going through the earlier inquiry. It is also submitted that the petitioner is being prosecuted on account of party faction in the village.

I have heard learned counsel for the petitioner and perused the available record with his able assistance.

Section 51(1)(a) of the Act provides that where a criminal case is under investigation, enquiry or trial and if in the opinion of the Director or

Deputy Commissioner concerned the charge made or proceeding taken against him is likely to embarrass him in the discharge of his duties or involves moral-turpitude or defect of character, then the Competent Authority may suspend the Sarpanch or Panch.

In the present case, besides anything else, there is a criminal case registered against the petitioner under Sections 409/420 IPC, which is under investigation and finding has been recorded by the Appellate Authority that the said offence comes under the category of moral turpitude and it is fully covered within the ambit of Section 51(1)(a) of the Act.

Counsel for the petitioner has not denied this fact in the petition except alleging that a false FIR has been registered against him, which is yet to be decided.

Thus, in view of the aforesaid discussion, I do not find any merit in the present petition as there is no illegality in the impugned orders of putting the petitioner under suspension during the pendency of regular inquiry against him.

Dismissed.

July 26, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No