

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

CWP No.24432 of 2017
Date of decision: 20.12.2017

Balwant Singh

.... Petitioner

versus

State of Punjab and ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. M.K.Singla, Advocate
for the petitioner.

Mr. Suveer Sheokand, Addl. AG, Punjab.

Mr. H.P.S.Ghuman, Advocate
for respondent No.7.

Rakesh Kumar Jain, J(Oral)

Petitioner has challenged the proceedings of the meeting dated 18.10.2017 (Annexure P-5) wherein respondent No.7 – Gurjinder Singh, Panch has been elected as an authorised panch.

Brief facts of the case are that Sarpanch Paramjit Singh was suspended on 23.06.2017. The petitioner was admittedly elected as authorised panch. The petitioner received a notice dated 04.10.2017 sent by BDPO, Sangrur to remain present in the meeting, which was called on 18.10.2017 at 10.00 am to prove the quorum. The petitioner wrote a letter to BDPO on 16.10.2017 for “(1) copy of the application be given to him, (2) meeting dated 18.10.2017 be postponed because due to Diwali he cannot come present and (3) it be also informed that under which provision of law the meeting has been called”, however, the meeting was called on 18.10.2017 by the BDPO in which he recorded the following: S. Balwant

Singh, authorised Panch, instead of coming present in the meeting, has sent leave, therefore, quorum of Balwant Singh authorised Panch is not complete. This report is being sent to a Hon'ble District Development and Panchayat Officer, Sangrur for further action.”

In the same meeting, the panches, who were present, made an oral request to BDPO to elect an authorised panch. The BDPO in turn elected respondent No.7 – Gurjinder Singh as the authorised panch.

Learned counsel for the petitioner has argued that entire procedure adopted by BDPO is illegal in the eyes of law because so far no order has been passed removing him from the post of authorised panch and in the presence of an authorised panch, another authorised panch cannot be elected.

In reply, learned State counsel has submitted that the BDPO has elected authorised panch on the asking of the panches, who were present, as they were not happy with the functioning of the petitioner as an authorised panch.

Learned counsel for the petitioner has further submitted that even otherwise the BDPO has no jurisdiction to elect an authorised panch and that there should have been separate notice and agenda to call such a meeting and it could not have been done in the meeting dated 18.10.2017, which was called only for proving the quorum.

After hearing learned counsel for the parties and examining the notice for proving the quorum and meeting note, I am of the considered opinion that impugned order (Annexure P-5) is patently illegal and deserves to be set aside because the petitioner was elected as an authorised panch and has not been removed as such by any competent authority. The meeting

dated 18.10.2017 was called only to prove the quorum about which the BDPO has observed that the petitioner had failed to prove the quorum and sent his report to District Development and Panchayat Officer, Sangrur on which the action is still awaited. The procedure adopted by BDPO is patently erroneous and contrary to the provisions of law as there is no provision which authorizes BDPO to appoint another authorised panch in the presence of the other.

Accordingly, the present petition is allowed and the impugned order is set aside.

20.12.2017
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(Rakesh Kumar Jain)
Judge

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No