

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

**CWP No.310 of 2017
Date of decision:12.01.2017**

Kashmir Kaur

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Kapil Kakkar, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner has sought indulgence of this Court by invoking the provisions of Article 226 of the Constitution of India for issuance of writ in the nature of mandamus for directing the respondents to allow her to continue performing the duties as Sarpanch of village Fatehpur, District Hoshiarpur along with duties of the Anganwadi Worker on the premise that number of other similarly situated persons have been discharging the dual role as per information received, vide letter dated 3.10.2016 (Annexure P-6) under Right to Information Act.

Mr. Kapil Kakkar, learned counsel appearing on behalf of the petitioner submits that the petitioner was working as Anganwadi Worker since 4.11.2009 and performed her duties with honesty. There was no complaint against her, resulting into contesting the election for the post of Sarpanch of village Fatehpur and vide notification dated 12.08.2016 was

elected as Sarpanch. The defeated candidate made a complaint to respondents No.3 and 5 on the premise that the petitioner cannot hold dual charge. On the basis of complaint, respondent No.5, vide letter dated 27.09.2016 called upon the petitioner to clarify that out of two posts of Sarpanch and Anganwari Worker upon which she wants to work and similarly, vide letter dated 24.10.2016, respondent No.3 also asked the petitioner to relinquish the charge of one post, i.e., either of Sarpanch or Anganwari Worker. He further submits that the defeated candidate also filed a election petition in this regard in the Court of Deputy Commissioner and now the matter is fixed for 19.01.2017.

He further submits that until and unless there is no finding, the same cannot be agitated or complaint was liable to be dropped. The show cause notice (Annexures P-3) was also challenged by filing a civil suit which is slated for 22.02.2017. However, on 15.12.2016, respondent No.5 issued another notice to the petitioner to give option either for working as Anganwari Worker or as Sarpanch and on receipt of the same, the petitioner submitted reply and reiterated earlier stand qua pendency of the election petition but the respondents did not accept the genuine request of the petitioner and terminated her services as Anganwadi Worker. Having left with no other option, the petitioner submitted a representation dated 23.12.2016 (Annexure P-9). Due to non-completion of coram, she never worked as Sarpanch but however, respondent No.5 forcibly and coercively asked the petitioner to submit the resignation from the post of Sarpanch which she submitted vide Annexure P-10 and as a result thereof, her

services as Anganwadi Worker, vide letter dated 23/26.12.2016 (Annexure P-11) was restored . He further submits that in this regard, i.e., for withdrawing the resignation from the post of Sarpanch, particularly when civil suit and election petition are pending, a representation, vide Annexure P-12, has been submitted to Block Development and Panchayat Officer, Hoshiarpur-I, District Hoshiarpur but no action has been taken thereof and he would be satisfied, in case appropriate direction is issued to respondent No.3- Block Development and Panchayat Officer, Hoshiarpur-I, District Hoshiarpur to decide the representation within given time line.

Notice of motion.

On asking of the Court, Mr. Yatinder Sharma, learned Additional Advocate General, Punjab accepts notice on behalf of the respondents-State.

Keeping in view the stand taken in the written statement, factum of pendency of election petition and as well as civil suit, much less submissions made by Mr. Kapil Kakkar, I deem it appropriate to dispose of the writ petition by issuing a direction to respondent No.3 - Block Development and Panchayat Officer, Hoshiarpur-I to decide the representation (Annexure P-12) after affording effective opportunity to the petitioner and defeated candidate as expeditiously as possible in accordance with law preferably within a period of one month from the date of a receipt of certified copy of this order. The petitioner is also at liberty to give any document in support of her submissions.

Accordingly, the writ petition stands disposed of.

Till then, the order of resignation from the post of Sarpanch shall be kept in abeyance.

Copy be given under signature of Reader attached with the Court.

(AMIT RAWAL)
JUDGE

January 12, 2017
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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No