

CWP No.27960 of 2017

[1]

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

**CWP No.27960 of 2017
Date of decision:25.01.2018**

Suresh Kumar

...Petitioner

Versus

Additional Chief Secretary and another

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Rajdeep Singh Tacoria, Advocate,
for the petitioner.

Mr. Shalender Mohan, Advocate,
for the caveator.

Rakesh Kumar Jain, J.

The petitioner is the Sarpanch who is aggrieved against the order dated 10.08.2017 passed by the Deputy Commissioner, Hisar and the order dated 21.11.2017 passed by the Appellate Authority.

In brief, the petitioner is the elected Sarpanch of the Gram Panchayat, Mugalpura. On a complaint filed against him, a preliminary inquiry was held by the Block Development and Panchayat Officer, Uklana, in which he was found guilty. The petitioner was served with a show cause notice in terms of the provisions of the Haryana Panchayati Raj Act, 1996 (hereinafter referred to as the "Act"), to which he has filed the reply. The Deputy Commissioner, Hisar, after taking into consideration the reply, dealt with the charges separately and ultimately, came to the conclusion of removal of the petitioner from the post of Sarpanch. The said order was challenged by the petitioner by way of an appeal as provided under Section 51(5) of the Act,

which was also dismissed by the Appellate Authority on 21.11.2017 with the following observations:-

“I have heard the counsels for the parties at length and have gone through the record file carefully. There are three allegations against the Sarpanch/appellant. Firstly, he did not take effective steps to remove encroachment and to discharge the dirty water from Gali No.1128. Secondly, he has changed the counsel of the Gram Panchayat without specific authorization. Thirdly, the family members of the Sarpanch are in illegal occupation of land of the well. The Sarpanch has taken the plea that he took various steps to remove the encroachment and to discharge the dirty water from the Gali No.1128, as well by passing a resolution dated 30.06.2016 resolve to level the street no.1126 by putting the earth. He also pleaded that he has changed the Counsel for the Gram Panchayat vide resolution no.3 dated 09.04.2016 and no member of his family is in illegal possession of land of the well. The enquiry report dated 25.04.2017 and photographs available on file on page no.455 of the record file show that the Sarpanch has failed to remove the complete encroachment as well as has failed to discharge the dirty water from Gali No.1128. The photocopy of Vakalatnama of Sh. Mahender Maheria, Advocate, Hisar in case titled Rattan Singh vs. Haryana State shows that the same was filed on 19.03.2016 in the Court of Hon'ble Sudhir Kumar, Civil Judge, Junior Division, Hisar on behalf of Gram Panchayat. Whereas, Gram Panchayat resolved to change the Counsel vide its resolution dated 09.04.2016. Quite naturally the defence taken by the Sarpanch is not tenable. The reply to the show cause notice submitted by the appellant has been duly considered by the Deputy Commissioner, Hisar as well the appellant has been personally heard by the Deputy Commissioner, Hisar on 02.08.2017. In view of the above, I find no merit in the present appeal and as such, the same is dismissed.”

Counsel for the petitioner has submitted that the petitioner has been victimized, otherwise the charges have not been proved against him. He also relied upon a decision of this Court rendered in the case of **Shivpal Singh**

vs. State of Haryana and others, 2009(1) RCR (Civil) 544 to submit that even if the petitioner has committed any kind of irregularity, the warning would have been sufficient instead of his removal.

On the other hand, counsel for the respondents has submitted that the petitioner had engaged a counsel on 19.03.2016 on his own though the resolution in this regard was passed by the Panchayat on 09.04.2016 and the petition under Section 7 of the Punjab Village Common Lands and (Regulation) Act, 1961 was filed after the preliminary inquiry was conducted. It is submitted that the decision in **Shivpal Singh's case (supra)** is not applicable because in that case, the Deputy Commissioner had given warning to the Sarpanch which is not the case here.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that there is no merit in the present petition. The allegations against the petitioner have been thoroughly gone into by both the respondents which are made out against the petitioner and the respondents have rightly exercised their powers for the purpose of his removal from the post of Sarpanch. Insofar as the decision of this Court relied upon by the counsel for the petitioner in **Shivpal Singh's case (supra)** is concerned, even that is also not applicable to the facts of this case.

Consequently, I do not find any merit in the present petition and hence, the same is hereby dismissed, though without any order as to costs.

January 25, 2018
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No