

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

CWP No.6551 of 2018

Date of Decision: 16.03.2018

Surjan Singh Sarpanch

....Petitioner

Versus

State of Punjab and others

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Baldev S. Sidhu, Advocate
for the petitioner.

DAYA CHAUDHARY, J. (ORAL)

Petitioner is aggrieved by order dated 22.01.2018 (Annexure P-1), whereby, the application for interim stay has been dismissed by respondent No.1.

Learned counsel for the petitioner submits that the appeal is still pending before the Financial Commissioner and the same was filed along with application for stay. Only the application has been dismissed, whereas, the appeal is still pending. The very purpose of filing an appeal would be frustrated as interim order was also required to be considered on merits but no reason, whatsoever, has been mentioned. Learned counsel also submits that the street is a public street and not a private and a wrong finding has been given.

Heard the arguments of learned counsel for the petitioner and have also perused the impugned order.

Admittedly, the appeal is still pending and only the application has been decided. A perusal of impugned order shows that only the reason

which has been mentioned therein is that the petitioner, being *Sarpanch*, has misused his power and has put the earth in the private street, whereas, it is a public street.

By putting the earth in the public street is not the misuse of power by the petitioner. Moreover, the appeal is still pending. In absence of decision of the appeal, the decision on the application for interim stay is going to frustrate the purpose of filing the appeal.

Accordingly, the present petition is disposed of with a direction to respondent No.1 to decide the pending appeal on the date fixed i.e 05.04.2018. However, in case, for any sufficient reason, the same is not decided on that date, it be decided within a period of two weeks thereafter.

Meanwhile, the operation of impugned order dated 22.01.2018 (Annexure P-1) shall remain stayed till the decision of the appeal.

However, it is made clear that any observation made hereinabove shall not be taken as an expression of opinion while deciding the appeal.

(DAYA CHAUDHARY)
JUDGE

16.03.2018
gurpreet

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No