IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.8970 of 2018
Date of Decision: 16.04.2018

Smt. Surjit Kaur ....Petitioner

Versus

State of Punjab and others ....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Vivek Chauhan, Advocate
for the petitioner.

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DAYA CHAUDHARY, J. (ORAL)

The petitioner is aggrieved by order dated 15.03.2018 passed by the Financial Commissioner, whereby, her application for interim stay has been rejected and the appeal is still pending for 03.05.2018.

Learned counsel for the petitioner submits that the petitioner is having a good case but while dismissing the application for interim stay, merits have been discussed. The purpose of filing appeal would be frustrated as the application has been dismissed without discussing three ingredients of the interim order. By discussing the merits of the main case, the impugned order has been passed in the application. At the end, learned counsel for the petitioner submits that an irreparable loss would be caused to the petitioner and no purpose would be served, in case, the appeal is decided subsequently when the petitioner has already been suspended.

Heard the arguments of learned counsel for the petitioner and have also perused order dated 15.03.2018 passed by the Financial

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Commissioner.

On perusal of said order, it appears that not only the merits of the case have been discussed but a finding has also been recorded. All these things which have been mentioned in the impugned order are to be considered while hearing the main appeal. Simply by saying one line that the balance of convenience is not in favour of the appellant for staying the orders of suspension, is not sufficient while passing the impugned order. Moreover, the appeal is fixed for hearing on 03.05.2018. Other arguments have also been raised by learned counsel for the petitioner that the petitioner was not associated in the enquiry and at the most, the amount in dispute could have been recovered. It was not a ground for suspension from the office of Sarpanch.

Since the appeal is pending for 03.05.23018 and to discuss the merits of the case in the order while declining the prayer for interim order is going to affect merits in the main appeal, which is pending for 03.05.2018. The present petition is disposed of with a direction to respondent No.1 to make all efforts to decide the pending appeal on 03.05.2018. In case, for any sufficient reason, the same is not heard on said date, the same be decided thereafter within a period of two weeks only.

Meanwhile, operation of impugned order dated 15.03.2018 passed by the Financial Commissioner shall remain stayed.

(DAYA CHAUDHARY)
JUDGE

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Whether speaking/reasoned Yes/No

Whether Reportable Yes/No

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