

150 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9652-2018

Date of decision : 20.04.2018

Prem Ranga

..... Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr.R.S.Kundu, Advocate for the petitioner.

DAYA CHAUDHARY, J. (Oral)

The prayer in the present petition is for issuance of a writ in the nature of certiorari to quash orders dated 06.04.2018 (Annexures P-1 and P-2) whereby petitioner has been removed from the post of Sarpanch. The petitioner has challenged aforesaid orders by way of filing appeal before respondent No.1 which is still pending for 22.05.2018.

Learned counsel for the petitioner submits that during pendency of the appeal, acting Sarpanch has been appointed and no purpose would be served by keeping the appeal pending without passing any interim order. Along with the appeal, an application for interim stay was also filed but neither the appeal has been heard nor the application.

Learned counsel for the petitioner also submits that the charge is with the petitioner and it should not be taken from him after appointment of acting Sarpanch as a great prejudice would be caused to him. Learned counsel has relied upon a judgment of Division Bench of this Court in case

Subhash Tyagi v. Financial Commissioner and Principal Secretary to Government of Haryana and others, CWP No. 377 of 2008 decided on 11.01.2008(reported as 2008(1) LAR 257).

I have heard arguments of learned counsel for the petitioner and have perused the impugned order and other documents on the file.

Admittedly, the appeal is pending for 22.05.2018 alongwith application for interim stay. During pendency of this petition acting Sarpanch has been appointed in place of the petitioner on 19.04.2018 but the copy of the order has not been placed on record. The prayer in the present petition is for quashing of order dated 06.04.2018 whereby the petitioner has been placed under suspension. The appeal against the said order is pending. Appointment of acting Sarpanch has not been challenged in this petition. The judgment relied upon by learned counsel for the petitioner is not applicable keeping in view the facts and circumstances of the case. Learned counsel for the petitioner has been asked to place on record copy of the order whereby acting Sarpanch has been appointed. He has only prayed for issuance of a direction to the respondents not to take charge from the petitioner.

Without having any record of appointment of acting Sarpanch, no order can be passed. However, the appeal with application for interim stay is pending. No direction can be issued as the order of suspension has been challenged before the Appellate Authority. However, respondent No.1 is directed to decide the appeal which is fixed for hearing on 22.05.2018. The petitioner is at liberty to move an application to respondent No.1 for taking up the application for interim stay. In case such an application is moved before respondent No.1 within a period of one week from date of

receipt of copy of the order, then respondent No.1 is directed to consider the same and pass necessary orders thereon in accordance with law, after hearing the petitioner within a period of one week.

The present petition is disposed of accordingly.

April 20, 2018
sunita

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No