

Sr. No. 123

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

**CWP No.4789 of 2019 (O&M)
Date of Decision: 22.02.2019**

Jitender Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Abhilaksh Grover, Advocate,
for the petitioner.

ARUN MONGA, J.(ORAL)

Present petition has been filed, *inter alia*, seeking issuance of a writ in the nature of certiorari to quash the impugned order dated 11.02.2019 (Annexure P-1), passed by respondent No.3-Deputy Commissioner, Yamuna Nagar, under Section 51 of the Haryana Panchayati Raj Act, 1994. Whereby, the tenure of the petitioner as Sarpanch, Gram Panchayat Pinjora, Block Jagadhri, Distt. Yamunanagar, has been placed under suspension.

2. Learned counsel for the petitioner contends that the impugned order has been passed without following the due process of law as envisaged under the Act, *ibid*. He contends that ever since the petitioner was elected 'Sarpanch' in the year, 2016, he has been rendering his services with utmost honesty and diligence for the betterment and development of his village

Pinjora.

3. However, on the basis of a complaint, copy of which, learned counsel for the petitioner contends, was not given to the petitioner, a preliminary inquiry was directed by the Deputy Commissioner. Based on the report of the preliminary inquiry, the impugned order was passed suspending the petitioner as 'Sarpanch' of his village.

4. Learned counsel for the petitioner contends that no regular inquiry has been directed to be conducted. Even otherwise, the impugned order is non-speaking, inasmuch as, most of it merely reproduces the contents of the preliminary inquiry report. Respondent No.3 has suspended the petitioner without any application of mind. Learned counsel for the petitioner further contends that this Court vide a judgment rendered by a Full Bench in case titled as ***Ujagar Singh Vs. State of Punjab and others, 1970 AIR (Punjab) 193***, has held that the power of the Deputy Commissioner to suspend a Panch/Sarpanch only comes into existence if a pre condition exists, that is to say, an inquiry is pending against the Panch.

5. Learned counsel for the petitioner contends that no inquiry has been marked by respondent No.3 against the petitioner. He contends that the petitioner could not have been suspended on the basis of a preliminary inquiry as the said procedure is alien to the provisions of the Act, *ibid*. He further contends that respondent No.3 could not have suspended the petitioner for the purpose of directing an inquiry. For the Deputy Commissioner to invoke his power and jurisdiction, to suspend a

Panch/Sarpanch, an inquiry must be pending when an order to that effect is made, contends the learned counsel for the petitioner.

6. Learned counsel for the petitioner fairly concedes that the petitioner has already availed of the alternative remedy and has preferred an appeal against the impugned order dated 11.02.2019 (Annexure P-1), under Section 51(5) of the Haryana Panchayati Raj Act, 1994. He states that the appeal has though been heard by the Appellate Authority but no orders have been pronounced in the same.

7. Be that as it may, without going in to the merits of the case, I do not deem it necessary to issue any formal notice as no further pleadings/ proceedings are required in the case. Present petition is disposed of with a direction to respondent No.2 to dispose of the appeal filed by the petitioner within a period of two weeks from the date of receipt of a certified copy of this order.

8. In the meanwhile, keeping in view the contentions of learned counsel for the petitioner and the reliance placed by him on the judgment rendered by Full Bench, *ibid*, the operation of impugned order dated 11.02.2019 (Annexure P-1) shall be kept in abeyance until the disposal of the appeal by respondent No.2 as directed above. It is made clear that order of abeyance passed by this Court is subject to the final order to be passed by the Appellate Authority and the Appellate Authority shall be at liberty to vary the same at the time of disposing of the appeal of the petitioner.

9. A copy of this order be given under the signatures of

the Bench Secretary.

22.02.2019

(ARUN MONGA)
JUDGE

vandana

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