

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

CWP No. 12720 of 2019 (O&M)

Date of Decision: 10.09.2019.

Iqbal Singh, Ex-Sarpanch

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. NPS Mann, Advocate,
for the petitioner.

Ms. Anju Arora, Addl. AG Punjab.

JITENDRA CHAUHAN.J.(ORAL)

Through the instant civil writ petition, the petitioner has sought quashing of notice/order dated 15.04.2019 (Annexure P-2) passed by respondent No.4, vide which inquiry against the petitioner, was initiated.

It is contended that the petitioner was elected as Sarpanch of Gram Panchayat Nanushehra Pannuan, Block Naushehra Pannuan, District Taran Taran in the year 2008 and he completed his term of five years in the year 2013. During the tenure of the petitioner various development works were conducted by the Gram Panchayat. A complete record of every developmental work was maintained by the petitioner. Thereafter, in the year 2013 one Satnam Singh son of Darshan Singh was elected as the new Sarpanch of the Gram Panchayat and he too has completed his term upto June, 2018. However, vide

order dated 18.04.2019 (Annexure P-1) respondent No.4 has initiated an inquiry against Satnam Singh Sarpanch on the complaint made by the residents of the village and impugned notice/order dated 15.04.2019 (Annexure P-2) has also been served upon the petitioner. It is contended that the impugned order is illegal and against the provisions of Section 216 of the Punjab Panchayati Raj Act, 1994 (for short “the Act”) which stipulates that no Sarpanch can be called upon to explain to make good any loss after the expiry of a period of four years from the occurrence of such loss, waste or misappropriation or after the expiry of 2 years from his ceasing to be a Member whichever is later. It is further contended that the term of the petitioner stood expired in the year 2013 and the inquiry proceedings have been initiated against him vide order dated 15.04.2019 (Annexure P-2) which is beyond the period of limitation. It is further contended that after the petitioner ceased to be the Sarpanch, the record was returned by the petitioner.

On the other hand, the learned State counsel has failed to controvert the legal position. However, the learned State counsel states that no disciplinary proceedings were initiated against the petitioner. He was simply asked to furnish record.

Heard.

It is an admitted position that the petitioner remained Sarpanch of Gram Panchayat Nanushehra Pannuan, Block Naushehra

Pannuan, District Taran Taran from 2008 to 2013. Section 216(4) of the Act is reproduced as under:-

“Notwithstanding anything contained in this section no person shall be called upon to explain why he should not be required to make good any loss, after the expiry of four years from the occurrence of the loss, waste or misapplication or after the expiry of two years from his ceasing to be a member, whichever is later.”

In view of the provisions of Section 216(4) of the Act, no inquiry in respect of loss, waste or misappropriation can be made after the expiry of four years from the occurrence of loss or two years from his ceasing to be a member whichever is later. In the present case, the petitioner remained Sarpanch from 2008 to 2013, therefore, the order dated 15.04.2019 (Annexure P-2) calling upon the petitioner to give clarification with regard to the works executed by him during his tenure is bad in law. Otherwise also, there is no evidence on record that after the petitioner ceased to be the Sarpanch, he retained any record or part of the record. Consequently, the impugned order cannot sustain and is liable to be set aside.

In view of the above, the present civil writ petition is allowed. The impugned notice/order dated 15.04.2019 (Annexure P-2) passed by respondent No.4 is hereby quashed.

10.09.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No