

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

**CWP No.16071 of 2019
Date of Decision: 12.06.2019**

Dilawar Singh

Petitioner

Versus

State of Haryana and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. M.K. Taya, Advocate
for the petitioner.

Ms. Vibha Tewari, A.A.G., Haryana.

AVNEESH JHINGAN, J (Oral):

The present petition has been filed seeking direction to the Financial Commissioner and Principal Secretary to Government of Haryana (respondent No.2) to decide the stay application pending before it in a time bound manner. Further prayer has been made that in the meantime, operation of order of suspension dated 21.05.2019 be stayed.

Brief facts of the case are that the petitioner was elected as *Sarpanch* of village Ballah, District Karnal in the year 2015. There were complaints made that petitioner-*Sarpanch* had encroached the *panchayat* land. Demarcation was done on 09.08.2018. It was found that there was encroachment by the petitioner. A show cause notice was issued on 31.12.2018 and

reply to the said show cause notice was filed. The matter was referred to the authorities to verify the illegal possession. A report was submitted on 15.04.2019 reiterating that the petitioner has illegal possession. Vide order dated 21.05.2019, petitioner was suspended. Aggrieved of order of suspension, appeal alongwith stay application was preferred under Section 51(5) of the Haryana Panchayati Raj Act, 1994 before respondent No.2. Thereafter, present petition has been filed.

Learned counsel for the petitioner argues that the appeal and stay application are not being decided by the Financial Commissioner and in the meantime, order of suspension is being enforced.

No case is made out for interference in the present case. Appeal was filed on 28.05.2019, thereafter, the present writ was filed on 30.05.2019 without giving sufficient time to respondent No.2 to deal with the matter. There is nothing on record to show that the stay application was ever pressed or to show that any effort was made by the petitioner before the Appellate Authority to press the stay application. Moreover, nothing has been placed on record to establish that any steps were taken by the petitioner by way of request or application before the appellate authority for early disposal of the stay application or the appeal. Rather straightway, remedy of writ has been invoked.

The grievance raised is that during pendency of the stay application, order of suspension is being implemented. There is no

quibble on the issue that stay application filed is to be dealt expeditiously, on the other hand mere filing of stay application or appeal cannot automatically be taken as stay of the impugned order.

Learned counsel for the petitioner relies upon decisions of this Court in Subhash Tyagi Vs. Financial Commissioner and Principal Secretary to Government of Haryana and others (2008) 2 RCR (Civil) 60 and Ranbir Singh Vs. Commissioner & Secretary to Govt. Haryana and others, 1990 PLJ 370.

The said decisions do not enhance the case of the petitioner. In the present case, without taking any steps for pressing the stay application, the petitioner has approached this Court. However, there is no doubt that in case a request is made by the petitioner to the appellate authority for early hearing of the stay application, the same would be considered in accordance with law, as expeditiously as possible.

Disposed of.

[AVNEESH JHINGAN]
JUDGE

June 12, 2019

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | No |