

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

Civil Writ Petition No. 7966 of 2020 (O&M)
Date of decision: June 12, 2020

Devender Tyagi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Harkesh Manuja, Advocate,
for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

JAISHREE THAKUR, J.

Heard through video conferencing.

By way of instant writ petition, the petitioner seeks issuance of a writ in the nature of Certiorari for quashing of the orders dated 12.5.2020 ad 23.5.2020, Annexures P/4 and P/5 respectively, whereby the petitioner, who was elected as Sarpanch, has been placed under suspension and a regular inquiry has been ordered.

The petitioner herein, *inter-alia*, contends that that he had been suspended from the post of Sarpanch, while invoking the provisions of the Haryana Panchayati Raj Act, 1994, without following due process of law, since no proper notice had been issued to him.

Learned counsel for the petitioner contends that the petitioner was elected as Sarpanch and he had been working for the benefit of the residents of the village with all sincerity and dedication. However, he

became victim of the previous Gram Sachiv, who had duped various panchayats of their funds by playing fraud. It is stated that the petitioner was issued show cause notice dated 17.4.2020 by the office of respondent No.3 and was called upon to submit a reply. In the said show cause notice, it was stated that the petitioner was not protecting the interest of the Gram Panchayat and was causing financial loss by violating the financial rules. The petitioner was directed to make good the loss as occurred to the Gram Panchayat. The petitioner filed a reply to the said notice on 24.4.2020 and as a matter of abundant caution even deposited the entire amount as directed by the notice. However, without conducting a proper inquiry as contemplated under Section 51 of the Haryana Panchayati Raj Act, 1994, the impugned order has been passed.

Learned counsel for the petitioner submits that the petitioner was not afforded an opportunity of hearing before he was placed under suspension; nor adequate opportunity was afforded to him before ordering a regular inquiry. The petitioner has already approached the authority concerned by filing a statutory appeal as provided under Section 51 (5) of the Haryana Panchayati Raj Act, 1994 along an application for grant of stay of the impugned orders. However, on account of the COVID-19 pandemic, the appellate authority was not available and as such the said appeal could not be heard. It is stated that it is on account of the aforesaid circumstances, the present writ petition has been filed.

Notice of motion was issued and appearance has been caused on behalf of the State. Learned counsel for the respondent—State, *inter-alia*, submits that once the petitioner has already availed of the remedy by

filing a statutory appeal, he would not be entitled to pursue the two remedies.

I have heard learned counsel for the parties and have gone through the pleadings. At this stage, without going into the merit of the case, the petitioner is directed to pursue his statutory appeal that has already been filed, considering the fact that the office of the Appellate Authority, where the appeal is stated to be pending, is now functional. However, as the petitioner has already filed an application for stay of the impugned orders, which is yet to be considered, let the same be decided expeditiously.

The parties are directed to appear before the Appellate Authority on 10.7.2020.

In the meantime, the operation of the impugned orders is kept in abeyance till the time the application of the petitioner for stay is decided. Needless to say that the petitioner would not be divested of his power of Sarpanch.

June 12, 2020
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No