

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

109

CWP-8078-2020

Date of decision: 15.06.2020

Vinay

.....Petitioner

Versus

State of Haryana & others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vikram Singh, Advocate
for the petitioner.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed present petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for setting aside the order dated 27.05.2020 (Annexure P-1) passed by respondent No.2 whereby the petitioner has been suspended from the post of Sarpanch and a writ in the nature of mandamus staying operation of the above-said order till the decision of the application for stay filed along with appeal dated 08.06.2020 (Annexure P-7).

Learned Counsel for the petitioner has submitted that the petitioner has been suspended on the basis of report of the BDPO as to embezzlement of Panchayat fund by the petitioner in connivance with the Bank Manager and Sujit Singh, Gram Secretary but no preliminary inquiry was conducted and no show cause notice was issued. FIR No.332 dated 06.04.2020 had been registered under Section 306 of the IPC in Police Station Sonapat City, District Sonapat against the BDPO but the BDPO conducted inquiry and himself submitted report on the basis of which FIR No.131 dated 30.05.2020 was registered under Sections 201, 409, 420, 467, 468, 478 and 120-B of the IPC in Police Station Murthal against the petitioner. The inquiry report is incomplete violation of the principles of natural justice. The petitioner has filed appeal against the impugned order dated 27.05.2020 before the competent authority under the provisions of the 1994 Act along with an

application for staying the operation of the said order but the said appeal is not being listed or heard by the authority concerned, which is causing prejudice to the petitioner.

In support of the contention that an appellate authority is required to promptly consider the issues raised before it by way of a statutory appeal, reliance is placed on decision of a Division Bench of this Court in ***CWP-15000-1996, titled Kashmir Kaur V/s. Secretary to Government of Haryana, Development and Panchayat Department-cum-Financial Commissioner and others : 1997 (1) PLR 242***; the decision of a learned Judge of this Court in ***CWP27000-2019, titled Saroj Bala vs. State of Haryana***, and the decision of another learned Judge of this Court in ***CWP-34025-2019, titled Sheetal Devi vs. State of Haryana and others***.

Learned counsel for the petitioner has further submitted that in similar circumstances, this Court while deciding ***CWP No.708 of 2020 on 13.01.2020 titled as "Ram Pal v State of Haryana and others"*** issued directions to the competent authority to decide the appeal/application for the stay filed along with the appeal expeditiously and has prayed that the petitioner be also granted the same relief as granted by this Court in ***Ram Pal's case (supra)***.

Notice of motion.

Mr. Kiranpal Singh, Assistant Advocate General, Haryana who has joined the proceedings through video conference keeping in view the service of advance copy of the petition, accepts notice on behalf of the respondents.

Learned counsel for the respondents has not disputed the passing of the orders by this Court in ***Ram Pal's Case (supra)***, whereby under the similar circumstances, a direction has been issued by this Court to the Competent Authority to decide the appeal/application for stay preferred by the suspended Sarpanches expeditiously and has stated that in the present case also the appeal/application for stay preferred by the petitioner will be expeditiously disposed of by the Competent Authority within such time frame as may be fixed by this Court.

After hearing learned counsel for the parties, the petition is disposed of with a direction to the Financial Commissioner-cum-Additional Chief Secretary, Department of Panchayat and Rural Development, Haryana to decide the application for stay on merits by speaking order within 15 days from the date of receipt of certified copy of this order and appeal filed by the petitioner against the order of suspension expeditiously preferably within three months from the date of receipt of certified copy of this order. Till decision of the stay application on merits, operation of the impugned order dated 27.05.2020 shall remain stayed.

15.06.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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