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

**CWP No.9824 of 2020(O&M)
Date of Decision: 31.07.2020**

Krishan Kumar Mor

.....Petitioner

Vs

State of Haryana and another

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

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

Mr. Deepak Balyan, Addl., A.G. Haryana.

RAJ MOHAN SINGH, J.(Oral)

[1]. The case has been taken up for hearing through video conferencing.

[2]. Petitioner has preferred this writ petition for issuance of an appropriate writ or direction especially in the nature of certiorari for setting aside the order dated 08.07.2020 vide which an application for stay of order dated 23.06.2020 has been dismissed.

[3]. Petitioner was suspended from the post of Municipal Counselor vide order dated 23.06.2020. Petitioner filed a

statutory appeal before respondent No.1 along with an application for interim stay. Due to delay in disposal of the appeal and stay application, the petitioner ventured to file CWP No.9007 of 2020 in the High Court. The said writ petition came up for hearing on 02.07.2020 and the same was disposed of by passing the following operative part of the order:-

“Keeping in view the facts and circumstances as above, this writ petition is disposed of with a direction to the learned Appellate Authority to consider and dispose of the appeal preferred by the petitioner in a time bound manner, preferably within three months from the date of receipt of the certified copy of this order. Application for interim relief, filed by the petitioner, be decided by the learned Appellate Authority, within 15 days from the date of receipt of certified copy of this order and till the decision thereof, order dated 23.06.2020 shall remain stayed.”

[4]. Perusal of the aforesaid order would show that the writ petition was disposed of with a direction to the Appellate Authority to decide the application as well as appeal in a time bound manner. The appeal was ordered to be decided preferably within a period of three months from the date of receipt of certified copy of the order, whereas application for interim relief was ordered to be decided within 15 days from the date of receipt of certified copy of the order. Till such time, operation of the order dated 23.06.2020 was stayed.

Respondent No.1 has decided the prayer for interim relief vide order dated 08.07.2020.

[5]. The grievance of the petitioner is that two types of proceedings were in offing at the relevant time. The enquiry regarding embezzlement, corruption and fraud in Municipal Council, Narwana, District Jind was also pending before the same authority i.e. Additional Chief Secretary to Government of Haryana, Urban Local Bodies Department. The statutory appeal was also pending before the same authority.

[6]. The petitioner was issued a letter of communication dated 03.07.2020 in the context of enquiry regarding embezzlement, fixing 08.07.2020 as the date for personal hearing. No such communication was issued in the context of hearing statutory appeal or the application for grant of interim relief. The petitioner was not well at the relevant time and he sent a request for adjournment of enquiry proceedings proposed to be held on 08.07.2020. The said request of the petitioner was received by respondent No.1, which is apparent from para No.6 of the impugned order. The said request was in the context of enquiry proceedings only. There was no communication in respect of fixing any date in statutory appeal and the application for grant of stay. The document relied upon by respondents No.1 and 2 along with reply is also suggestive of the fact that letter of intimation dated 03.07.2020 was only in the context of

enquiry regarding embezzlement, corruption and fraud in Municipal Council, Narwana. It was not in the context of fixing any date in statutory appeal or in the application for grant of interim relief.

[7]. It appears from the impugned order that the date fixed in the enquiry proceedings has been taken to be a date in the statutory appeal and the prayer for interim relief has been rejected. The presence memo of the impugned order would show that neither the petitioner nor his counsel was present at the time of consideration of the stay application.

[8]. Having considered the aforesaid facts, I am of the view that the impugned order needs to be set aside primarily on the ground that no opportunity of hearing was afforded to the petitioner while passing the impugned order. The impugned order has been passed by treating the intimation dated 03.07.2020 to be an intimation in the statutory appeal, whereas it was not so as per Annexure P-5 attached by the petitioner and Annexure R-1 along with reply filed by respondents No.1 and 2.

[9]. In these circumstances, the impugned order is set aside primarily on this ground with a liberty to respondent No.1 to pass afresh order in the light of directions issued by the High Court vide order dated 02.07.2020. Now the application for interim relief be decided by respondent No.1/Appellate Authority within a period of 15 days from the date of receipt of certified

copy of this order. Till such decision is taken by respondent No.1, the operation of the order dated 23.06.2020 shall remain stayed. Since the directions have already been issued for deciding the appeal preferably within a period of three months and the said period has not expired so far, therefore, direction to that extent as contained in the order dated 02.07.2020 would remain the same. It is made clear that any observation made hereinabove would confine only to the extent of observing that the impugned order is violative of principles of natural justice and not on merits of the case. The respondent No.1 shall pass fresh order in accordance with law without being influenced by any statement of fact recorded hereinabove.

[10]. Disposed of.

31.07.2020

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No