

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

205

**CWP No.12232 of 2020 (O&M)
Decided on : 03.12.2020**

Krishan Chand Goel

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Keshav Gupta, Advocate, for the petitioner.

Mr. Shivendra Swaroop, AAG, Haryana,
for respondents No.1 & 2.

Mr. Lokesh Sinhal, Advocate , for respondent No.3.

(The proceedings are being conducted through
video conferencing, as per instructions.)

G.S. Sandhawal, J. (Oral)

CM-13051-CWP-2020

Application for placing on record the additional affidavit
alongwith annexures to the written statement filed by respondent No.3, is
allowed. The same is taken on record. Office to append the same at the
appropriate place.

CM stands disposed off.

Main case

The petitioner in the present writ petition filed under Article
226 of the Constitution of India seeks directions for issuance of a writ in the
nature of mandamus by directing the respondents to allow the petitioner to
attend the meetings of the Haryana State Pharmacy Council-respondent
No.3 (hereinafter referred to as 'Council').

It is the case of the petitioner that he was elected as a member
of respondent No.3-Council, as per notification dated 03.03.2014

(Annexure P-1). Vide notification dated 16.07.2014 (Annexure P-2) he was notified as President of the Council, with retrospective effect from 02.06.2014. Suspension order was passed on 21.12.2017 (Annexure P-3), on account of the fact that a criminal case had been registered against him and the charge of the Council was given to the Vice-President. The petitioner has challenged the suspension order by filing CWP No.4965 of 2018, in which on 18.04.2018 (Annexure P-3/A) status-quo as it exists on that day was ordered and, thus, for all practical purposes the petitioner continues to be under suspension.

Vide meeting held on 12.01.2018 (Annexure R-3/1), all the facilities/powers which were provided to the petitioner have been withdrawn, in view of the FIR No.10 of 15.12.2017 registered at Haryana State Vigilance Bureau, for financial irregularities. Thereafter, on 15.03.2018 (Annexure R-3/3) he was relieved from all official duties and as per the proceedings before the Council, Shri Sohan Lal Kansal was appointed as President. The petitioner in the pending litigation has taken time to amend the written statement challenging the resolution dated 15.03.2018, on the ground that there is a removal from the post of President.

It is, thus, contended that the petitioner being a elected member of the Council, cannot be restrained as such from attending the meetings, till he is removed as an elected member. Reliance has been placed upon Section 25 of the Pharmacy Council Act, 1948 that elected member can hold office for a term of five years from the date of his

nomination or election or until his successor has been elected, whichever is longer.

It is not disputed that fresh elections have not taken place. In such circumstances, though the petitioner may have been relieved/removed from the post of the President, he still is an elected member.

The stand of the respondent No.3 in paragraph No.14 of the the written statement filed in the connected litigation is also same that he continued to be a elected member of the Council.

In such circumstances, counsel for respondent No.3-Council could not show any provision by which the petitioner who is under suspension could be stopped from attending the meetings of the Council. The only ground taken is that he can tamper with the records, which is without any basis, since he is only attending the proceedings as such and it is not that he has the financial charge of the Council, as temporarily another member has been given the charge.

In such circumstances, directions are issued to the respondent No.3-Council to allow the petitioner to attend the meetings being an elected member. The petitioner shall be given adequate notice of the meetings which are to be held, at least two days in advance.

The writ petition stands disposed off with the abovesaid directions.

(G.S. SANDHAWALIA)
JUDGE

DECEMBER 03, 2020

Naveen

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No