

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 19539 of 2020

Date of Decision: 03.12.2020

Ravinder Kumar

... Petitioner(s)

Versus

Principal Secretary to Government of Haryana and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Naveen S. Bhardwaj, Advocate
for the petitioner(s).

Mr. Rohit Arya, Deputy Advocate General,
Haryana for the respondents.

Anil Kshetarpal, J.

On 18.11.2020, the following order was passed:-

“The petitioner seeks quashing of the impugned order dated 20.05.2020 (P3) passed by the Deputy Commissioner, Bhiwani and the order dated 19.10.2020 (P8) passed by the Appellate Authority vide which the appeal preferred against the order of suspension of the petitioner (P3) has been dismissed. Petitioner thus seeks his reinstatement.

Learned counsel for the petitioner based upon the pleadings submits that the petitioner was duly elected Panch and is enjoying full confidence of the General Body. Vide order dated 20.05.2020 (P3), the petitioner was placed under suspension which is the main grievance of the petitioner. He makes reference to the demarcation report mentioned in the said impugned order of suspension to submit that the

demarcation report dated 16.03.2018 (P10) would actually show that the alleged area of 34.39 sq.yards was actually stated to be encroached by Ram Kumar s/o Dev Karan (and not the petitioner). He submits that based up on the report dated 16.03.2018, the BDPO had allegedly on wrong basis vide letter dated 07.08.2019 reported to the Deputy Commissioner (P9).

Learned counsel for the petitioner submits that these facts were specifically brought to the notice of the authorities but has been lost sight of. Thus both the impugned orders fall into error and are liable to be set aside. He further submits that the orders are completely against the records; arbitrary and the very basis of the orders does not exist.

At this stage, learned counsel for the petitioner submits that even otherwise the order suffers from various illegalities/irregularities. The above submissions are some of the submissions whereas he has other lawful grounds as well to address which would show that the impugned orders are liable to be struck down on the ground of violation of principles of natural justice as well as violation of the provisions of the Act.

Notice of motion.

On the asking, Mr. RS Budhwar, Addl. AG Haryana accepts notice through video conferencing.

List on 03.12.2020.

In the meantime, it is directed that the respondents shall examine the issue in view of the aforementioned

contentions of the learned counsel for the petitioner. It is directed that the competent authority may carefully examine the issue de hors the orders passed (P3 & P8). In case the contention of learned counsel for the petitioner is found to be meritorious and correct, let necessary orders i.e. to withdraw/cancel the earlier orders be passed.

In case, however, there is any other lawful ground not to withdraw the aforementioned impugned orders, an affidavit be filed by an Officer not below the rank of the Secretary to the Government of Haryana explaining the issue.

Let the needful be done as aforementioned within 10 days from today and compliance affidavit be filed within two weeks from today”.

Mr. Rohit Arya, Deputy Advocate General, Haryana, on instructions from Anoop Kumar, Legal Officer in the Office of the Deputy Commissioner, Bhiwani, has stated that Sh. Ram Kumar, son of Sh. Dev Karan, is the writ petitioner's father. He, further, submits that this writ petition has been filed challenging the order by which the petitioner was placed under suspension from the office of the Panch. He submits that the regular inquiry has already been completed and the report shall be submitted to the competent authority within one week.

Keeping in view the aforesaid facts, it is considered appropriate to dispose of the writ petition, by directing the competent authority i.e. Deputy Commissioner, Bhiwani, or the Director, Panchayat, as the case may

be, to pass a final order on the issue, after granting an opportunity of hearing

to the petitioner, within a period of one month from the date of receipt of the report.

With these observations, the writ petition is disposed of. Needless to mention here that the competent authority would be required to pass a speaking order after considering all the aspects of the matter.

(Anil Kshetarpal)
Judge

December 03, 2020
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No