

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

CWP- 20550-2020

Date of Decision : December 02, 2020

Suresh Kumar

..... PETITIONER(S)

VERSUS

Financial Commissioner Panchayat and Rural Development & ors.

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Shalender Mohan, Advocate, for the petitioner.
Mr. Rajesh Gaur, Additional Advocate General, Haryana.

...

Sanjay Kumar, J.

The petitioner was suspended from the post of Sarpanch of Village Bharri, Block Hisar-I, under order dated 18.11.2020 passed by the Commissioner, Hisar Division, Hisar. Aggrieved thereby, he filed an appeal in ROR No.104 of 2020 before the Financial Commissioner, Haryana. His grievance presently is that the stay application filed by him in the said appeal has not been taken up and the next date for hearing in the appeal is fixed on 07.01.2021. It is in these circumstances that he seeks protection from this Court under Article 226 of the Constitution.

When the statutory scheme of the Haryana Panchayati Raj Act,

1994, provides the remedy of appeal against an order of suspension of a
SANDEEP SETHI
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I attest to the accuracy and
integrity of this document

Sarpanch, it would be necessary that the quasi-judicial authority who is clothed with such appellate power discharge his functions expeditiously. In the event the main appeal is not amenable to quick disposal, it would be incumbent upon such authority to consider the stay application filed therein, if any. Delay in disposal of such a stay application would cause irreparable injustice to the party who has invoked the remedy.

In the case on hand, the suspension order was passed on 18.11.2020 and the appellate authority seems to have fixed the next date of hearing in the appeal in January, 2021. Needless to state, the petitioner would be displaced from office pursuant to the suspension order if he is not protected by a stay order pending disposal of the appeal. It is therefore necessary that the appellate authority considers the petitioner's stay application in the pending appeal at the earliest.

No cause is made out for this Court to step into the shoes of the appellate authority and examine the validity of the suspension order, given the scheme of the Statute and the efficacious alternative remedy provided thereunder.

The writ petition is accordingly disposed of directing the Financial Commissioner, Panchayat and Rural Development-cum-Additional Chief Secretary, Panchayati Raj Department, Haryana, the 1st respondent herein, to advance the hearing of the stay application filed by the petitioner in his appeal bearing No. ROR 104 of 2020 and consider and dispose of the same on merits and in accordance with law. Pending such consideration by the Financial Commissioner, the suspension order dated 18.11.2020 shall not be given effect to.

It is made clear that this Court has not gone into the merits of the matter and it is for the Financial Commissioner to independently examine the case before him and taken an appropriate reasoned decision on the stay application.

No order as to costs.

December 02, 2020
Kang

(Sanjay Kumar)
Judge

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