

225
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-29343-2018
Date of decision: 3.2.2020

Kaushalya Devi

.....Petitioner.

vs.

State of Haryana and others

.....Respondents.

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. Ramesh Hooda, Advocate for the petitioner.

Mr. Rajesh Gaur, Additional AG., Haryana

Mr. Raman Chawla, Advocate for respondent No. 5.

.....

Sanjay Kumar, J. (ORAL)

Challenge in this writ petition is to the show-cause notice dated 5.11.2018 (Annexure P-7) issued by the Deputy Commissioner, Hisar, whereby the petitioner, the Sarpanch of the Gram Panchayat of Village Khoka, Tehsil Hansi, District Hisar, Haryana, was given seven days time to show cause as to why she should not be removed from the said post.

By order dated 20.11.2018, this Court stayed the operation and effect of the impugned notice dated 5.11.2018 (Annexure P-7). The authorities filed their written statement and perusal thereof reflects that it is not their case that the impugned notice was preceded by any inquiry, whereby an opportunity of hearing was afforded to the petitioner, before issuance of the impugned show cause notice. In this regard, it may be seen that Section 51(3) of the Haryana Panchayat Raj Act, 1994, categorically postulates that the Deputy Commissioner concerned may after such inquiry as he may deem fit and after giving an opportunity of hearing to

the Sarpanch, ask such Sarpanch to show cause against the action proposed to be taken against him. The aforesatated statutory scheme therefore makes it clear that the Deputy Commissioner must undertake an inquiry in the course of which an opportunity of hearing is also given to the Sarpanch concerned and it is only thereafter that a show-cause notice can be issued in relation to the action proposed to be taken. In the case on hand, the impugned show-cause notice dated 5.11.2018 was not preceded by any inquiry, even going by the averments made in the written statement.

The show-cause notice is accordingly set aside on the short ground of violation of the prescribed procedure. The writ petition is allowed. This order shall however not preclude the authorities from taking appropriate action, if warranted, in accordance with the due procedure.

No order as to costs.

(SANJAY KUMAR)
JUDGE

3.2.2020

preeti

whether speaking/non speaking

yes

whether reportable/non reportable

yes/no