

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

CM-877-CWP-2020 in/and
CWP-35535-2019 (O&M)
Date of decision: 21.1.2020

Devender

.....Petitioner.

vs.

State of Haryana and others

.....Respondents.

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. Naveen S. Panwar, Advocate for the petitioner.

Mr Rajesh Gaur, Additional Advocate General, Haryana.

.....

Sanjay Kumar, J. (ORAL)

CM-877-CWP-2020

Application is ordered. Annexure P-8 is taken on record.

CWP-35535-2019

The petitioner is the Sarpanch of the Gram Panchayat of Village Shahpur Taga, Tehsil Ganaur, District Sonipat. Earlier, he was removed from the said post by the Deputy Commissioner, Sonipat, *vide* order dated 26.9.2019. The appeal filed by him against the said order proved to be ineffective as the appellate authority did not take up the same for hearing and disposal. He accordingly filed ***CWP-29136-2019***, titled ***Devender vs. State of Haryana and others***, before this Court and by interim order dated 4.10.2019, this Court stayed the operation of the impugned removal order.

Thereupon, the Deputy Commissioner, Sonipat, suspended the petitioner from the post of Sarpanch, *vide* order dated 18.11.2019, exercising power under Section 51 of the Haryana Panchayati Raj Act, 1994. The petitioner filed an appeal against the said order before the Financial Commissioner-cum-Principal Secretary, Department of Panchayat and Rural Development, Government of Haryana, on 10.12.2019. Mr. Naveen S. Panwar, learned counsel for the petitioner, would inform this Court that the said appeal was numbered as Appeal No. 94-2019 but the appellate authority has neither taken up the main appeal nor the stay application filed therein. In these circumstances, the petitioner filed the present writ petition assailing the suspension order dated 18.11.2019.

Perusal of the impugned suspension order demonstrates that the main ground on which the Deputy Commissioner, Sonipat, proceeded against the petitioner was that he had not taken any action against certain encroachers on Gram Panchayat land. However, the material now placed on record by the petitioner, marked as Annexure-P8, demonstrates that the petitioner filed an application under Section 7 of the Punjab Village Common Land Act, 1961, seeking eviction of the said encroachers. This application was filed as long back as on 2.7.2019 before the Assistant Collector, First Class, Sonipat. It is therefore manifest that the understanding of the Deputy Commissioner that the petitioner had not taken any action

In any event, as the appeal filed by the petitioner against the aforestated suspension order is still pending consideration before the appellate authority, it would be premature for this Court to entertain this writ petition for adjudication on merits. However, given the aforestated facts, the suspension of the petitioner based on the erroneous impression as to his alleged failure to take action against the encroachers cannot be countenanced.

The writ petition is accordingly disposed of directing the appellate authority to expeditiously consider the petitioner's appeal, viz., Appeal No. 94-2019, on its own merits and in accordance with law for final disposal or if the same is not possible, for disposal of the stay application filed therein. Till the appellate authority passes an order, be it in the main appeal or upon the stay application filed therein, the impugned suspension order dated 18.11.2019 shall be kept in abeyance.

No order as to costs.

(SANJAY KUMAR)
JUDGE

21.1.2020

preeti

whether speaking/non speaking

yes/no

whether reportable/non reportable

yes/no