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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.1036 of 2021 (O&M)

Date of decision: 05.05.2021

Kirna Rani Sarpanch

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Baldev S. Sidhu, Advocate
for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for setting-aside the order dated 25.03.2021 vide which the Appellate Authority has dismissed the application for stay during the pendency of the appeal filed by the petitioner against the order dated 04.01.2021 vide which the Director Rural Development and Panchayat, Punjab, has suspended the petitioner from the post of Sarpanch.

Counsel for the petitioner has submitted that the allegations against the petitioner are two fold. Firstly, as per the report of A.D.C., the petitioner has issued a wrong Job Card No.415 favouring Jaspreet Singh and showing his wrong presence in the muster roll whereas he was not entitled to get the Job Card because he is a bachelor and he is living with his parents who have already got Job Card No.205 and therefore, the petitioner being Sarpanch of the village misused her post. The second charge against the petitioner is that an FIR No.89 dated 29.07.2020 was registered under Section 22 of the NDPS Act

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against one Shimla Devi, who was apprehended by the police party on suspicion and 450 tablets of CLOVIDOL 100-SR were recovered. It is further submitted that after the arrest, the police recorded the disclosure statement of Shimla Devi in which she has stated that the same was brought by husband of the petitioner and thereafter, the petitioner has given the same to her.

Counsel for the petitioner has also submitted that the petitioner has already been granted the concession of anticipatory bail in the said FIR as she was nominated in the case on the basis of the disclosure statement of the co-accused vide order dated 16.10.2020 passed in CRM-M No.23280 of 2020. It is further argued that the primary allegation against the petitioner in this FIR is based on the disclosure statement of the main accused Shimla Devi and in view of the judgment of the Hon'ble Supreme Court in ***“Tofan Singh vs State of Tamil Nadu”*** 2013 (16) SCC 31, the same is not admissible against the petitioner as the police has nominated the petitioner due to the political rivalry.

Counsel for the petitioner has also submitted that in fact before issuing the Job Card to Jaspreet Singh, a proper resolution was passed by the Gram Panchayat as despite being a bachelor, he was disowned by his parents by issuing a notice in the newspaper in the month of February, 2019 and even declaration letters were issued.

Counsel for the petitioner has also referred to the Punjab Government guidelines vide communication dated 24.09.2020 (Annexure P-9) in which the Rural Development and Panchayat Department has informed the Incharge (Complaint Branch) that as per

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Chapter III of the Master Circular for making Job Card under MGNREGA Scheme, the adult member of every household residing in rural area and willing to do unskilled manual work is entitled for issuance of a Job Card and therefore, there was no impediment in issuing the Job Card to Jaspreet Singh. It is lastly argued that the suspension of the Sarpanch, who is an elected member has a serious consequence and mere nomination of the petitioner in a criminal case on the basis of a disclosure statement is not sufficient to suspend the petitioner from the post of Sarpanch.

Counsel for the petitioner has lastly submitted that since the Job Card was issued after passing a resolution of Panchayat, the petitioner alone cannot be held liable for issuance of the Job Card as it was a collective action of the Gram Panchayat.

Notice of motion.

Ms. Anju Sharma Kaushik, DAG, Punjab, who is appearing through video conferencing, accepts notice on behalf of the respondent – State and could not dispute the factual position.

After hearing the counsel for the parties and considering the facts and circumstances of the case, this petition is allowed and the impugned order dated 25.03.2021 passed by the Appellate Authority, is set-aside as neither any violation of government guidelines dated 24.09.2020 is made out nor the direct involvement of the petitioner in FIR case is made out as she was not found in conscious possession of any contraband.

Disposed of.

Resultantly, the suspension of the petitioner on the post of

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Sarpanch, shall remain stayed during the pendency of the appeal before the respondent No.1 – Appellate Authority.

05.05.2021

(ARVIND SINGH SANGWAN)
JUDGE

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