

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

116

CWP-10345-2021

Date of Decision : 28.05.2021

Karam Singh

.....Petitioner

V/s

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present: Mr. V.K. Sandhir, Advocate
for the petitioner.

Ms. Deepali Puri, Addl. A.G., Punjab
for the respondents.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the order dated 22.03.2021 (Annexure P-5) passed by respondent No.2-Director, Rural Development and Panchayat, Punjab whereby the petitioner was suspended from the post of Sarpanch.

Briefly stated the petition has been filed on the averments that the petitioner was elected as Sarpanch of Gram Panchayat Bhambri in the year 2018 and worked honestly for development of the village. Respondent No.3-District Development and Panchayat Officer, Fatehgarh Sahib wrote letter dated 07.08.2020 (Annexure P-1) to respondent No.2-Director, Rural Development and Panchayat, Punjab that the petitioner has not taken any action against the encroachers and

action under Section 20 of the Punjab Panchayati Raj Act, 1994 be initiated against him. On the basis thereof respondent No.2-Director, Rural Development and Panchayat, Punjab issued notice dated 01.10.2020 (Annexure P-2) to the petitioner under Section 20 of the Punjab Panchayati Raj Act, 1994 to explain his position within a period of 15 days. The petitioner submitted his reply dated 14.10.2020 (Annexure P-3) within a period of 15 days stating that after becoming the Sarpanch, the petitioner called the meeting of Gram Panchayat and passed a resolution to demarcate the panchayat land and after demarcation the petitioner took possession of the panchayat land from the encroachers. Some encroachers again encroached upon the panchayat land which fact was brought to the notice of respondent No.4-Block Development and Panchayat Officer, Amloh but no action was taken by respondent No.3-District Development and Panchayat Officer, Fatehgarh Sahib against the encroachers. The petitioner filed sixteen eviction petitions under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 in the Court of the Collector, Fatehgarh Sahib. Due to political pressure of local MLA, respondent No.2-Director, Rural Development and Panchayat, Punjab was not satisfied with the reply submitted by the petitioner and called him for personal hearing and vide order dated 22.03.2021 suspended him without complying with the provisions of Section 20 of the Punjab Panchayati Raj Act, 1994. Suspension order being illegal is liable to be set aside. The petitioner filed appeal (Annexure P-6) against order dated 22.03.2021 along with application for stay of the same on 05.04.2021 before Secretary, Department of Rural Development and

Panchayat, Punjab which was adjourned to 15.04.2021 then to 20.05.2021 and thereafter to 01.07.2021. During pendency of the appeal, respondent No.4-Block Development and Panchayat Officer, Amlloh, District Fatehgarh Sahib has started proceedings for taking charge from the petitioner.

On issuance of notice of motion vide order dated 27.05.2021, learned State Counsel appeared on behalf of the respondents and sought time for completion of instructions. However, no reply to the petition has been filed by the respondents.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has argued that respondent No.2-Director, Rural Development and Panchayat, Punjab suspended the petitioner from the post of Sarpanch without any enquiry merely on the basis of letter dated 07.08.2020 of respondent No.3-District Development and Panchayat Officer, Fatehgarh Sahib. The Gram Panchyat has already filed eviction petitions against the encroachers in the Court of the District Development and Panchayat Officer-cum-Collector, Fatehgarh Sahib. Impugned order dated 22.03.2021 being illegal is liable to be set aside. The petitioner has filed appeal against order dated 22.03.2021 along with application for stay which now stands adjourned to 01.07.2021 without any proceedings as respondent No.3-District Development and Panchayat Officer, Fatehgarh Sahib did not hold the Court on the dates fixed. During pendency of the appeal, respondent No.4-Block Development and Panchayat Officer, Amlloh, District Fatehgarh Sahib has started

proceedings for taking charge from the petitioner.

Learned Counsel for the petitioner has submitted that the Appellate Authority is mandatorily required to promptly consider the issues raised before it by way of a statutory appeal and also to decide the stay application.

Learned Counsel for the petitioner has further submitted that in similar circumstances, Coordinate Bench of this Court stayed the operation of the order of suspension till the order on stay application was passed by the Appellate Authority. In support of this submission learned Counsel for the petitioner has placed reliance on judgments of Coordinate Bench of this Court in ***CWP No.12643 of 2009 titled as 'Koki Devi Sarpanch Vs. State of Punjab and other' decided on 12.07.2021*** and ***CWP No.5133 of 2021 titled as 'Sherbaj Singh Vs. State of Punjab and others' decided on 08.03.2021***.

Learned Counsel for the respondents has not disputed the legal perspective canvassed by the above-referred judgment and has submitted that in the present case the appeal/application for stay preferred by the petitioner will be expeditiously disposed of by the Appellate Authority within such time frame as may be fixed by this Court.

After hearing learned Counsel for the parties but without examining the merits of the case and commenting upon the same, the petition is disposed of with a direction to the Secretary, Department of Rural Development and Panchayat, Punjab to decide the application for stay on merits by passing speaking order within 15 days from the date fixed in the case and also appeal filed by the petitioner against the order

of suspension expeditiously preferably within three months from the date of receipt of copy of this order. Till decision of the stay application on merits, operation of the impugned order dated 22.03.2021 shall remain stayed.

A copy of this order be supplied to learned State Counsel and also sent to Secretary, Department of Rural Development and Panchayat, Punjab for requisite compliance.

28.05.2021

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**(ARUN KUMAR TYAGI)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No