

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

LPA-1153-2021

Date of decision: 02.12.2021

(PROCEEDINGS THROUGH V.C.)

Gurpartap Singh Khosa and another

...Appellants

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present:- Mr. P.S. Brar, Advocate
for the appellants.

AUGUSTINE GEORGE MASIH, J.(ORAL)

Challenge in this appeal is to the order dated 30.09.2021, passed by the learned Single Judge in the writ petition, which was preferred by the appellants, wherein on setting aside of the order of suspension issued against the Sarpanch of the Gram Panchayat Balkhandi, Block Kot Ise Khan, Moga, was challenged which has been dismissed by upholding the order passed by the Additional Chief Secretary dated 26.08.2021 (Annexure P-7).

Learned counsel for the appellants has asserted that learned Additional Chief Secretary has over looked the fact that a well reasoned order has been passed by the Director Rural Development and Panchayats, Punjab dated 03.05.2021 (Annexure P-4), placing the Sarpanch-respondent No.8, under suspension. It has been found that no sanction has been obtained by the Sarpanch before proceeding with excavating the land from the

pond. Even the excavation, which has been carried out is much more deeper than which should have been permissible and there is no explanation with regard to the utilization of the said soil, which was extracted on the digging of the pond. The said aspect having been ignored, the appellate authority was not justified in passing the order of reinstatement of the Sarpanch on 26.08.2021 (Annexure P-7). He asserts that while carrying out the site visit, the Block Development and Panchayat Dharmkot, Kot Ise Khan as also the Assistant Engineer, who had accompanied him, did not associate the appellant in the said visit, therefore, he was unable to project the correct position. It is, thus, argued by the counsel for the appellants that the report on which reliance has been placed by the Additional Chief Secretary while passing the impugned order, cannot be sustained as it is at the back of the appellants.

We have considered the submissions made by the counsel for the appellant and with his assistance have gone through the record of the case as also the orders passed by the Additional Chief Secretary. A perusal of the order passed by the Additional Chief Secretary makes the things clear wherein Para-7, it has been stated as follows:-

“I have given my thoughtful consideration to the above submissions preferred by the parties and have also gone through the record as is available on file. It is observed from the report submitted by BDPO Dharmkot at Kot Ise Khan that the Sarpanch excavated the earth from Shamlat land and that excavated earth was used for filling the low lying places like park, front of Sewa Kendra, Govt. High School and park. Proper measurement of the earth was done by A.E. and was found correct by them. The order of the Director is against the principles of natural justice”.

On perusal of the above as also when read in consonance with the order passed by the learned Single Judge dated 30.09.2021, we are satisfied with regard to the order of reinstatement of the Sarpanch of the Village. It has come on record that the soil excavated from the Panchayat land meant for construction of the pond has been used for levelling the park/Sewa Kendra and Govt. High School. Even the volume of the excavated soil has been found to be proportionate to that which has been spread over the area. These findings which have been recorded by the learned Single Judge, cannot be faulted with as it is based upon the report which has been submitted to the competent authority.

We do not find any ground for interfering in the present appeal and therefore, finding no merit in the same, dismissed the appeal.

(AUGUSTINE GEORGE MASIH)
JUDGE

December 2nd, 2021
ps-I

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No