

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

226

**CWP No. 22475 of 2020
Decided on :11.01.2021**

Shivraj Singh

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present : Mr. Pankaj Jain, Advocate, for the petitioner.

Mr. Shivendra Swaroop, AAG, Haryana.

(The proceedings are being conducted through
video conferencing as per instructions.)

G.S. Sandhawalia, J. (Oral)

The present petition has been filed under Articles 226 and 227 of the Constitution of India praying for issuance of a writ in the nature of mandamus direction the respondent-State to consider the representation (Annexure P-10) submitted by the petitioner before taking any action on the orders as reported in newspapers (copy of which has not been supplied to the petitioner) and to restrain respondent no. 4, who has been repeatedly calling the petitioner to Police Station, Section 5, Panchkula and opportunity of hearing be granted to the petitioner before any action is taken against him.

Reply has been filed by the respondents. As per para no. 16, it has been mentioned that the representation of the petitioner dated 15.10.2020 (Annexure P-10) has been received but due to paucity of time, it could not be decided and the same is under consideration. It has further been averred that no adverse order had been passed by the Director, Urban Estates against the petitioner, however, suspension order has been issued on

08.01.2021 (Annexure R-1).

The following contention had been noticed on 23.12.2020:-

“Inter alia submits that representation dated 15.12.2020 (Annexure P-10) has been given against the proposed suspension. Reliance is placed upon the guidelines dated 14.12.2020 (Annexure P-11) that if any complaint contains verifiable allegations, they be sent to the complainant for owning and disowning. It is submitted that complainant Rajbir Singh Kanungo was an accused in FIR No.411 dated 28.08.2018 (Annexure P-4) and had also been proceeded departmentally on 02.07.2018 (Annexure P-4/A), in which the petitioner has been arrayed as a witness being Naib Tehsildar.

Notice of motion.

Mr. Shivendra Swaroop, AAG, Haryana, accepts notice on behalf of the respondents and prays for time to file reply.

List on 11.01.2021.

Notice re: stay as well.”

Thus, it is apparent that the apprehension of the petitioner has come true in as much as without even considering the representation, the respondent no. 3 has passed a suspension order, which cannot be said to be not an adverse order as he would only be entitled to subsistence allowance for the first six months. His head quarter has also been shifted to the Office of the Land Acquisition Officer, Hisar from the Land Acquisition Officer, Panchkula.

Thus, this Court is of the opinion that there is, as such, been non-application of mind on behalf of the said respondent in as much as the grouse of the petitioner has already been noticed in the order dated 23.12.2020. It is, thus, apparent that without realizing that the petitioner could be a victim of mala fides on account of the complaint filed by an

accused, action has been taken against him without appreciating the true facts as per the admission made in para no. 16 of the written statement.

In such circumstances, this Court is of the opinion that the order which has been passed during the pendency of the writ petition is liable to be quashed giving liberty to respondent no. 3 to firstly look into the representation (Annexure P-10) and then take an independent call on the issue as to whether the petitioner is liable to be suspended in view of the pertinent issues which he has raised in his representation. The writ petition, thus, is allowed by quashing the order dated 08.01.2021 (Annexure R-1). It is clarified that it is open to the respondent to take action independently, as observed above, as this Court has not expressed its opinion on the merits of the case.

11.01.2021
shivani

(G.S. SANDHAWALIA)
JUDGE

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