

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

CWP 22806 of 2020 (O&M)

Date of Decision: September 20, 2021

Rina Garg

...Petitioner

Versus

The State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. B.S. Rana, Sr, Advocate with
Mr. Mahir Sood, Advocate
for the petitioner.

Mr. Lokesh Singhal, Senior Addl. A.G., Haryana
for respondents no. 1 to 4.

Mr. Prateek Rathee, Advocate in CM-2123-2021
for proposed respondent No.6.

FATEH DEEP SINGH, J. (Oral)

CM 2123 of 2021

This is an application by applicant Kuldip Sharma
who claiming to be the person who moved the complaint against
the present petitioner Rina Garg in the capacity of councillor of
Municipal Committee Mahendergarh (in short '**the Committee**')

and the orders removing the petitioner as President of the Committee was made and, therefore, was necessary party needs to be arraigned as respondent No. 6 in the civil writ petition.

It is the allegations against the petitioner Rina Garg that during her tenure with the Committee, she had misconducted herself harming the interest of the Committee and, thus, was removed from the post of President of the Committee. The matter was looked into by the State and upon due inquiry orders to this effect were passed. The counsel for the applicant could not convince this Court how the presence of the applicant was essential and necessary to effecting adjudication. The present application is nothing but a political gimmick for a motivated cause. The application has been moved on 08.02.2021 much belatedly and after the proceedings were on the verge of culmination, to the mind of the Court is nothing but to unduly delay the disposal of the instant writ

petition and, thus, in the light of what has come across, the presence of the applicant is not necessary before this Court for judicious adjudication and the application being hopelessly without merits stands dismissed.

CWP 22806 of 2020

Petitioner Rina Garg who at the relevant time was elected representative of the Committee became its President and during the course of discharge of duties vide order dated 28.12.2020 (Annexure P-1), the Additional Chief Secretary, Urban Local Bodies Department, Haryana in the exercise of its powers under Sections 14 and 22 of the Haryana Municipal Act 1973 (in short, '**the Act**') ordered holding of an inquiry and on the basis of the inquiry report after the issuance of show cause notice removed the petitioner.

Perturbed over this conduct of the respondents, claiming that she and her husband were victims of political vendetta and falsely implicated in a number of criminal cases

which she has herself detailed in the petition and was, thus, subjected to harassment at the hands of the respondents which is at the behest of an Ex-MLA of Mahendergarh-Respondent No.5 and which torture is still continuing. It is further alleged that during her tenure as President, the MLA-respondent No. 5 had repeatedly moved no confidence motion against her regarding which various civil writ petitions were also filed. It is alleged that as a consequence of this vendetta, the respondents vide impugned order dated 28.12.2020 (Annexure P-1) has removed the petitioner from the presidentship of the Committee and she, thus, has invoked the jurisdiction of this Court under Articles 226/227 of the Constitution seeking a writ of *certiorari* for quashing of removal order dated 28.12.2020 (Annexure P-1), show cause notice dated 15.12.2020 (Annexure P-1A), inquiry report dated 16.11.2020 (Annexure P-2) and preliminary inquiry report dated 20.03.2020 (Annexure P-3) being illegal, unwarranted, without any jurisdiction, arbitrary and for setting

aside of the same.

Though respondents No. 1 to 3 and 4 filed separate written replies but the precise stands of these respondents that on account of certain acts and misconduct by the petitioner, a show cause notice was issued and, thereafter, due inquiries were held and after affording of reasonable opportunity the orders of removal order dated 28.12.2020 (Annexure P-1) were passed which were fully in consonance with the inquiry report in terms of Section 14 and 22 of the Act. It is further alleged that on the complaint dated 30.08.2019 made by one Kuldip Sharma nominated member of the Committee against the petitioner, the action was initiated which fell within the domain of gross and serious misconduct. The allegations further hover around the fact that resolution No. 14 dated 09.01.2011 to withdraw a regular second appeal bearing No. 8 of 2007 was passed by the Committee and for reasons best known to the Committee, the said regular second was not withdrawn and the same was

pending in the High Court against one Surender Kumar Garg another councillor of the Committee who incidentally happens to be the husband of the petitioner and in order to save her husband the petitioner in 2011 passed a resolution compromising the interest of the Committee and, thus, has acted illegally, mala-fidely and harming the interest of the Committee being its President deserves to be dealt with as per law. It is claimed that each and every act of the respondents was commensurate with the law and the fact governing the Committee and the petition filed by the petitioner was malafide and sought its dismissal.

Heard Mr. B.S. Rana, Sr, Advocate assisted by Mr. Mahir Sood, Advocate for the petitioner and Mr. Lokesh Singhal, Senior Addl. A.G., Haryana for respondents no. 1 to 4 and perused the record.

It is well writ large on the records that the Committee had filed regular second appeal No. 8 of 2007 against Surender

Kumar Gupta son of Hanuman Prasad who happens to be the husband of the petitioner Rina Garg, the President of the Committee regarding which letter (Annexure P-8) was issued to the counsel for withdrawing the appeal. The Deputy Commissioner Mahendergarh at Narnaul sent a letter dated 12.09.2011 (Annexure P-5) granting approval to the resolution of the Committee passed in its meeting held on 19.01.2011 as per resolution No 14 of the Committee that appeal of the Committee pending in the High Court be withdrawn. The primary dispute in that matter was over the rate of rent. The background of the litigation was that Surender Kumar Gupta husband of the petitioner Rina Garg had taken from Committee on rent a show-room in shopping business complex in his name. Subsequently, Surender Kumar Gupta aforesaid filed a suit in civil Court at Mahendergarh regarding the rate of rent. The Civil Court decided the matter in favour of Surender Kumar Gupta and, thereafter, appeal was filed by the Committee which too

went against its interest and this is how an RSA was filed in this Court which the Committee under the Presidentship of the petitioner had sought to withdraw but failed in its endeavor in spite of resolution having been passed by the Committee. It was subsequently withdrawn on 09.01.2019. It is during the course of events regular inquiry was ordered when a complaint was made and which inquiry report dated 16.11.2020 indicted the petitioner and others. The primary allegations were regarding withdrawal of an RSA by the Committee and further that the quorum at the time of convening of the meeting of the Committee when the resolution was passed was incomplete and, thus, by this act financial loss was caused to the Committee. The authorities issued show cause notice to the petitioner and after receipt of the report finding it to be unsatisfactory and giving her opportunity of personal hearing, the order of removal were passed. It is there in the records that the resolution for withdrawal of the RSA was passed by the

petitioner and others under her presidentship, thus, accruing financial benefits to her husband and causing financial loss to the Committee whose interest the petitioner in the capacity of the president was supposed to safeguard. More so, as has been contended on behalf of the respondents by Mr. Lokesh Singhal, Senior Addl. A.G. Haryana that Haryana Municipal Business Bye Laws 1981 provides that proceedings of a Committee are to be drawn by the Secretary of the Committee and in the case in hand, the same have been drawn by none but the petitioner herself who at the relevant time was President of the Committee and, therefore, goes to the very root of the procedure adopted by the Committee headed by the petitioner in passing resolutions dated 04.01.2019 and 09.01.2019 which ultimately led to the withdrawal of the RSA in which the husband of the petitioner was a party. Besides, as has been pointed out the petitioner knowingly and fully aware of the fact that in both these resolutions so passed there was conflict of interest of one of the

councillors Surinder Kumar Gupta who also happens to be her husband and, therefore, she was not supposed to participate in the proceedings and discussions culminating into passing of the resolution. Not only this Mr. Surinder Kumar Gupta who was contesting the litigation against the Committee too was present in the meeting which lead to the passing of these resolutions abundantly reflect how the process of law has been twisted to suit the whims and fancies of the petitioner and to further the interest of her family which vitiates these proceedings. What further alarms the Court is that the inquiry report that similar resolution was passed in the year 2011 but it did not meet with success but subsequent resolution passed in 2019 led to the withdrawal of the RSA by the Committee, thus, going in favour of the husband of the petitioner, another councillor of the Committee. Keeping in view this flagrant abuse of the powers of the President of the Committee certainly attracts the provisions of Section 14 of the Act against the petitioner. The Additional

Chief Secretary Urban Local Bodies Haryana rightly in exercise of his powers under Section 22 of the Act had ordered removal of the petitioner from the post of President of the Committee.

Though on behalf of the petitioner Mr. B.S. Rana, Advocate has sought to place reliance on **Tarlochan Dev Sharma Vs. State of Punjab** 2001(3) R.C.R. (Civil) 809, **Union of India and others Vs. S.K. Kapoor** 2011 AIR (SCW) 1814, **Mukesh Vs. State of Haryana and others** 2012 (2) R.C.R. (Civil) 547, **Vijay Mahajan, President Nagar Council, Dina Nagar Vs. State of Punjab** 2002(2) R.C.R. (Civil) 144, **Kulwant Singh Vs. State of Punjab and others** 2018(2) R.C. R. (Civil) 196, **Ashok Kumar Gupta Vs. State of Punjab** 2001(4) R.C.R. (Civil) 223 and **Bahubhai Girdharbhai Patel Vs. Manibhai Ashabhai Patel and others** 1975 GLR 566 claiming that there has been a abuse of powers by the incumbent Government who is ill disposed against the petitioner side due to political vendetta and that the material which were relied upon by the respondents

contravened the principles of natural justice and rule of fair hearing. It is sought to impress upon the Court that a single act of miscount by the petitioner who happens to be the President of the Committee does not attracts such a stringent and harsh punishment of her removal from the post of President of the Committee. It is claimed that though the Secretary was not present at the time of meeting when these resolutions were passed however quorum was as per the prescribed strength and, therefore, no illegality can be attributed to such a meeting of the Committee. All these ratios so cited at the bar by the learned counsel for the petitioner does not carry forward her case on account of factual disparity. It is a clear cut established case of the respondents how the vital interest of the Committee were compromised by the petitioner to advance the interest of her family and the husband and thereby to ensure pecuniary gain to her husband has compromised with the provisions of the Act and the bye-laws by convening meeting herself contrary to

the bye-laws and passing resolution undermining and compromising the interest of the Committee are matters of gross misconduct which cannot escape judicial scrutiny.

The figment of arguments that documents were not supplied to her is not at all substantiated on the records. The inquiry officer during the inquiry proceedings had afforded reasonable opportunity to the petitioner to show cause and lead her case and clearing the air against her which she did and in spite of opportunity of personal hearing could not instill confidence in the respondents that the allegations were unfounded, malafide, illegal and abuse of powers by the political opponents. The inquiry report dated 20.03.2020 (Annexure P-3) and subsequent report dated 16.11.2020 (Annexure P-2) shows that there had been no undue haste by the inquiry officer in conducting the inquiry and upon which a show cause notice Annexure P-1/A was issued on 15.12.2020 and after due opportunity of personal hearing the orders of removal dated

28.12.2020 (Annexure P-1) were passed by the respondents and the learned counsel for the petitioner could not convince this Court how this act and conduct of the petitioner which harmed financial interest of the Committee which she was supposed to protect as its President were compromised and the manner in which the meetings were held and resolutions passed to attain sinister design leaves nothing to doubt.

This Court does not find any merit in the instant petition which being hopelessly without merits stands dismissed.

September 20, 2021

(FATEH DEEP SINGH)

amit rana

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No