

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

Sr. No.119

**Civil Writ Petition No.3954 of 2022
Date of Decision : March 23, 2022**

Brahampal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Vikram Singh, Advocate, for the petitioner.

Mr. Rajneesh Chadwal, AAG, Haryana, for the respondents.

SUDHIR MITTAL, J. (ORAL)

The petitioner was the erstwhile Sarpanch of Gram Panchayat Mujeri. His tenure came to an end on 23.02.2021. On 13.01.2022, the concerned Junior Engineer and Sub-Divisional Officer (Electrical) wrote a letter to the BDPO concerned that the petitioner had embezzled money during his tenure as Sarpanch. On 14.01.2022, the Deputy Commissioner wrote to the BDPO directing registration of an FIR against the petitioner and others. Thereafter, notice dated 19.01.2022 under Section 53 of the Haryana Panchayati Raj Act, 1994 (hereinafter referred to as the Act) was issued for recovery of Rs.1,01,63,896/-. Subsequently, it appears that a physical verification of the missing stock was made and report dated 01.02.2022 came into being that stock worth Rs.93,89,331/- was available. Thus, the present writ petition has been filed with a prayer for setting aside

letter dated 14.01.2022 copy Annexure P-2 whereby the Deputy Commissioner has directed the BDPO to get an FIR registered against the petitioner and others.

Learned counsel for the petitioner has argued that it is not in dispute that the petitioner has deposited a sum of Rs.23,67,930/- on 17.01.2022. Checking report dated 01.02.2022 shows that stock worth Rs.93,89,331/- is available and thus, it is evident that letter dated 14.01.2022 was issued with undue haste. As on date, nothing is due to be recovered from the petitioner as per the record of the respondents and thus, letter dated 14.01.2022 deserves to be quashed.

Learned State counsel submits that notice dated 19.01.2022 under Section 53 of the Act was issued after an inquiry dated 13.01.2022 (Annexure R-1/T) was conducted. The petitioner was also associated with the said inquiry and it was found that embezzlement had been done. Based on the said inquiry report, letter dated 14.01.2022 (Annexure P-2) was issued directing registration of an FIR. Sum of Rs.23,67,930/- has been deposited only thereafter and thus, it cannot be said that there was undue haste in issuance of letter dated 14.01.2022. Since the petitioner has deposited Rs.23,67,930/-, it is an admitted case of embezzlement. Proceedings under Section 53 of the Act are pending and no directions are called for.

The petitioner has not sought any relief in proceedings pending against him under Section 53 of the Act. He is only seeking quashing of letter dated 14.01.2022 on the ground that the same suffers from non-

application of mind and has been issued with undue haste. Considering the facts of this case, he is not entitled to this relief as admittedly, sum of Rs.23,67,930/- was deposited on 17.01.2022 i.e. after issuance of the impugned letter.

In view of the above, the writ petition has no merit and is dismissed.

March 23, 2022

Ankur

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No