

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

118

CWP No. 7057 of 2022

Date of Decision:- 28.07.2022

ROOP CHAND

....Petitioner

vs.

STATE OF PUNJAB AND ANOTHER

....Respondents

BEFORE :- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mohd. Yousaf, Advocate,
for the petitioner.

Sudhir Mittal, J. (Oral)

The petitioner was Sarpanch of Village Sherpur Tehsil and District Jalandhar. An FIR dated 11.05.2015 was registered against him under Sections 409, 420 and 120-B IPC. Vide judgment dated 15.10.2019, he was convicted of the offence of cheating and sentenced to undergo rigorous imprisonment for a period of three years. Appeal against conviction is pending. One Joginder Singh complained to the Zila Parishad, Jalandhar that action under Section 20 of the Punjab Panchayati Raj Act, 1994, should be initiated against the petitioner, whereupon the Deputy Chief Executive Officer, Zila Parishad, Jalandhar, conducted an enquiry and found that the petitioner had not caused any loss to the Panchayat. The FIR has been registered on account of dispute between private parties and that appeal against conviction was pending. Subsequently, the District Development and Panchayat Officer, Jalandhar sent a report to the Department of Rural Development and Panchayat vide communication dated 15.12.2020 that the petitioner had been convicted and appropriate action should be taken against him. Accordingly, show cause notice dated 06.01.2021 was issued to the petitioner and vide order dated 21.06.2021 he was suspended. Appeal against order of suspension has been dismissed vide order dated 24.02.2022.

failed to examine the facts of this case independently. They should not have relied upon order of conviction alone especially when appeal was pending. The authorities have also erred in law in not taking into consideration the earlier report given by the Deputy Chief Executive Officer, Zila Parishad, Jalandhar. Thus, the impugned orders deserve to be set aside

Section 20 of the Act provides for removal from office of a Sarpanch or Panch on any of the grounds mentioned in Section 208 of the Act. Section 208 of the Act states that a person may be disqualified from being a member of the Panchayat *inter alia* if he has been convicted of any offence involving moral turpitude. Conviction under Section 420 IPC is evidence of the fact that the petitioner has been convicted of an offence involving moral turpitude and, thus, he could be dismissed from office under Section 20 of the Act only on account of his conviction. The Authorities below were not required to independently examine the facts of this case or to consider the factum of pendency of an appeal. Thus, the impugned orders cannot be faulted.

It needs to be mentioned that the petitioner could have been dismissed from his post under the law. Mere suspension seems to be on account of some sympathetic considerations which *prima facie* do not appear to be justified. However, since the question of non-passing of order of dismissal even when the law provided for the same, is not under examination, I refrain from making any further observations.

The writ petition has no merit and is dismissed.

July 28, 2022

poonam

(SUDHIR MITTAL)

JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

No