

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

Sr. No.230

**Civil Writ Petition No.7987 of 2020
Date of Decision : March 10, 2022**

Harinderpal Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Nakul Sharma, Advocate, for the petitioner.

Mr. Ayush Sarna, AAG, Punjab.

SUDHIR MITTAL, J. (ORAL)

The petitioner remained Sarpanch of the village during the period 2008-2013. He was again elected as such in the year 2019. Soon thereafter, a complaint was made that he had embezzled funds in the year 2011 i.e. during the earlier tenure. On the basis of this complaint, he was suspended. Appeal against the order of suspension has failed and thus, the present writ petition has been filed.

Learned counsel for the petitioner has submitted that suspension is governed by Section 20 of the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as the 'Act'). Under the said provision, a Panch or Sarpanch can be suspended for misconduct committed during the current tenure and not for any misconduct allegedly conducted during an earlier tenure. Thus, the order of suspension was illegal. He has further submitted that Section 216 (4) of the Act bars any action after expiry of four years from the occurrence of the loss and after expiry of two years from ceasing to be a member, whichever is later. The petitioner ceased to be a member on

conclusion of his tenure in the year 2013 and thus, the bar came into effect after 2015. The complaint in this case was made in the year 2019 and could not have been entertained.

Learned State counsel submits that a detailed inquiry has been conducted after receipt of complaint and it has been found that the petitioner embezzled a sum of Rs.15,990/- during his earlier tenure. Bar under Section 216(4) of the Act is not attracted as according to the said provision recovery cannot be made after the time stipulated in the said sub-section. Order of suspension can always be passed and thus, the impugned orders do not suffer from any infirmity.

The argument raised on behalf of the State does not answer the argument of learned counsel for the petitioner that suspension can only be on account of misconduct during the current term. Thus, the argument based upon Section 20 of the Act possesses merit. Even if bar under Section 216(4) of the Act is not attracted, the order of suspension is bad in law as it is based upon an alleged misconduct committed in the year 2011 and not during the current term.

In view of the above, the writ petition is allowed and orders impugned therein are quashed.

March 10, 2022

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned Yes

Whether Reportable Yes