

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

CWP-21324-2020

Date of decision: March 16, 2022

Somi Sidhu

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Arav Gupta, Advocate for the petitioner.

Mr. Pankaj Midda, Additional AG Haryana.

ARUN MONGA, J (ORAL)

Petitioner herein, *inter alia*, seeks issuance of a writ in the nature of Certiorari for quashing the impugned order dated 25.11.2020 (Annexure P-8) passed by respondent No.2-Deputy Commissioner, Kurukshetra, whereby petitioner has been suspended from the post of Village Panchayat Secretary, Village Dhanani, Block Babain District Kurukshetra, under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016 (for short 'Rules').

2. Learned counsel for the petitioner submits that respondent No.2 without considering the reply of the petitioner, on the allegation of demand of bribe, placed the petitioner under suspension without any departmental enquiry or notice.

3. While issuing notice of motion, following order was passed on 11.12.2020:-

“This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

It is submitted that pursuant to notice dated 07.10.2020 and the subsequent notice(s) attached as Annexures P2 and P3, the petitioner submitted his reply, Annexure P4 on 23.11.2020, which was duly received at the office of the Deputy Commissioner vide diary No. 22690, therefore, it is wrongly mentioned in the impugned order dated 25.11.2020 that the petitioner did not submit his reply to the show cause notice and thereby it is presumed that the allegations levelled against him are admitted.

Notice of motion.

Notice re: stay.

Mr. Ashish Yadav, Addl.AG, Haryana accepts notice on behalf of respondents No. 1 to 5.

Notice be issued to respondents No. 6 and 7 for 25.02.2021.”

4. *Apropos* above, a short reply by way of an affidavit dated 31.03.2021 of District Development & Panchayat Officer, Kurukshetra (respondent No.3) on behalf of respondents No.1 & 2 has been filed, wherein, following stand has been taken:-

“1. That the petitioner in the present writ petition has requested to quash impugned order dated 25.11.2020 (Annexure P-8) passed by respondent No.2. After going through the facts of the writ petition it reveals that the writ petition is pre mature because the remedy against the suspension order of the petitioner is the appeal to be filed before appellate authority who is Director, Development & Panchayat Department, Haryana, Chandigarh.”

5. In view of the aforesaid, writ petition is disposed of with liberty to the petitioner to file an appeal as aforesaid. It is made clear that the respondents shall not take the objection *qua* the maintainability of the appeal since it is their own stand taken that alternative remedy of appeal ought to be resorted first. Accordingly, let appellate authority pass appropriate orders in accordance with law, after considering the reply of the petitioner contained at Annexure P-4 in response to the show-cause notice. Needful be done as

expeditiously as possible but not later than three months since the petitioner continues to be under suspension.

(ARUN MONGA)
JUDGE

March 16, 2022

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No