

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-1128-2021(O&M)

Date of decision : 05.05.2023

Suresh Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Sandeep Lather, Advocate
for the petitioner.

Mr.Rajneesh Chadwal, AAG, Haryana
for respondents no.1 to 10.

Mr.Robin Lohan, Advocate
for respondent no.11.

Mr.Sant Lal Barwala, Advocate
for respondents no.12 and 13.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ especially in the nature of certiorari for quashing the notices vide which various amounts have been sought to be recovered from the present petitioner.

2. On 27.04.2023, this Court was pleased to pass the following order:-

“Learned counsel for the respondents have pointed out that in the present case, notices have been challenged whereas final order under Section 53 has not been passed yet and further stated that the plea raised by the petitioner, that recovery is sought after two years, is also factually incorrect.

None has appeared for the petitioner. None had appeared on

behalf of the petitioners on 10.11.2022 and 27.04.2022.

Adjourned to 05.05.2023.

To be taken up at 01:45 PM.

April 27, 2023.”

3. Learned counsel for the petitioner has submitted that in view of the above stand taken by the learned counsel for the State that the order under Section 53 of the Haryana Panchayati Raj Act, 1994 (in short “1994 Act”) has not been passed, the petitioner seeks to withdraw the present petition with liberty to file reply to the said notices and take all the pleas, which have been raised in the present petition, before the authorities. It is further submitted that as far as challenge to the FIR is concerned, liberty be granted to the petitioner to challenge the same in appropriate proceedings, in accordance with law.

4. Learned State counsel has submitted that in case the reply is filed within one month from today to the notices issued, then the same would be considered and appropriate order, in accordance with law, would be passed under Section 53 of the 1994 Act. It is submitted that till the time the order under Section 53 of the 1994 Act is passed, no recovery would be effected from the petitioner.

5. Keeping in view the above said facts and circumstances, the present petition is dismissed as withdrawn with liberty to take up all the pleas, which have been raised in the present petition, before the authorities. The petitioner is granted one month’s time to file reply to the various show cause notices and in case of his doing so, respondent no.5 is directed to consider the same and pass an order under Section 53 of the 1994 Act. Till the time the order under Section 53 of the 1994 Act is passed, the respondents are restrained from recovering any amount from the petitioner.

merits of the case and respondent no.5 would consider the case independently, in accordance with law. The petitioner is also granted liberty to challenge the FIR in an appropriate proceedings, in accordance with law. The interim order granted in the present case should not be construed as a stay of proceedings with respect to the FIR.

6. Pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

May 05, 2023
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No