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

CWP-2842-2023

Date of decision : 13.02.2023

Raj Kumari

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rajeev K. Kapila, Advocate and
Ms. Satpreet Grewal Kapila, Advocate for the petitioner.

Mr. Ferry Sofat, Addl. A.G. Punjab
for respondent Nos.1 to 5.

VIKAS BAHL, J. (ORAL)

This is a Civil Writ Petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondent Nos.1 to 4 to take necessary action as per law against respondent Nos.6 to 8 who have been found to be in illegal possession of land comprised in khasra No.20, which is a public street, on the basis of demarcation report dated 06.05.2022 (Annexure P-3) submitted by respondent No.4.

Learned counsel for the petitioner has submitted that a detailed legal notice dated 29.05.2022 (Annexure P-4) has been given by the petitioner to the various respondents including respondent No.2-Director,

Panchayat, giving the details of the allegations including the fact that private respondents are in illegal possession of *shareaam raasta* and has submitted that as per provision of Section 20 of the Punjab Panchayati Raj Act, 1994 (hereinafter to be referred as “the Act of 1994”), the Director has the power to suspend or remove the Sarpanch or Panch, in case, an act done by the said Panch or Sarpanch falls within the grounds mentioned under Section 20(1) of the Act of 1994. It is further submitted that one of the grounds constitutes violation of Section 208 of the Act of 1994 and as per Section 208(1)(k) of the Act of 1994, an unauthorised occupation of property belonging to any local authority is a ground for disqualification of the Member of Panchayat. It is contended that the petitioner would be satisfied in case, the present Civil Writ Petition is disposed of with a direction to respondent No.2 to look into representation/legal notice dated 29.05.2022 (Annexure P-4) and after considering the same, to take action, in accordance with law, after following due procedure.

Learned State counsel appearing for respondent Nos.1 to 5 has submitted that the power of suspension and removal under Section 20 is an enabling power and same would not give a right to the petitioner to seek the suspension and removal of the Sarpanch or Panch. However, since the power is vested with the Director to order an enquiry, thus, the Director Panchayat-respondent No.2 would look into the representation/legal notice dated 29.05.2022 (Annexure P-4), in accordance with law and in case respondent No.2 is of the opinion that any action is required to be taken with respect to the same, then the same would be taken, in accordance with law after following the principles of natural justice.

Keeping in view the above said facts and circumstances, the present Civil Writ Petition is disposed of with a direction to respondent No.2 to look into the representation/legal notice dated 29.05.2022 (Annexure P-4) and in case, after looking into the said legal notice and making necessary enquiry, respondent No.2 is of the opinion that any action is required to be taken in the matter, then the same be done, in accordance with law and after giving due opportunity of hearing to respondent Nos.6 to 8.

13.02.2023*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**