

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(113)

CWP-1639-2023

Date of decision: - 27.01.2023

Suresh

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Vikram Singh, Advocate,
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana
for respondents No.1 to 3.

VIKAS BAHL, J. (ORAL)

This is a civil writ petition under Articles 226/227 of the Constitution of India for issuance of an appropriate writ in the nature of mandamus directing respondent No.2 to decide the application of the petitioner dated 06.12.2022 (Annexure P-3), within a time bound manner in view of Section 51 and Section 177 of the Haryana Panchayati Raj Act, 1994 (for short 'the Act').

Learned counsel for the petitioner has submitted that the petitioner has given an application dated 06.12.2022 (Annexure P-3), in which, it has been stated that the husband of respondent No.4 is in unauthorized occupation of gram panchayat land and is thus disqualified under Section 175-N of the Act. It is further submitted that as per provision of Section 51(3) of the Act, the Director or the Deputy

Commissioner has the power, after holding such enquiry as he deems fit and after giving an opportunity to the Sarpanch to show cause, in case he incurs any of the disqualifications under Section 175 of the Act, of ordering his suspension or removal. It is also submitted that the petitioner would be satisfied in case the Deputy Commissioner, Sonipat, is directed to look into the application/representation dated 06.12.2022 (Annexure P-3) by virtue of which certain facts have been brought to the notice of the Deputy Commissioner, Sonipat and after considering the same, in case he is of the opinion that any further action is to be taken against respondent No.4, then the same be done in accordance with law, after following the principles of natural justice.

Learned State counsel appearing for respondents No.1 to 3 has submitted that the power of suspension and removal under Section 51 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. It is further submitted that daughter-in-law of the petitioner, namely, Swati has filed an election petition under Section 176 of the Act for rejection of nomination/candidature of respondent No.3-Neeraj therein, who is respondent No.4 in the present petition and in the said petition also the same grounds as have been raised in application/representation dated 06.12.2022 (Annexure P-3) have been raised and in the said proceedings, the respondents-State has conducted the demarcation and as per the demarcation report, husband of respondent No.4 is not in illegal possession of any panchayat land. It is also submitted that at any rate, respondent No.4 herself is not in illegal possession of any panchayat land.

Learned State counsel has argued that since the powers under Section 51 is vested with the Deputy Commissioner to order an enquiry, thus, the Deputy Commissioner, Sonipat would look into the application/representation dated 06.12.2022 (Annexure P-3) in accordance with law and in case the Deputy Commissioner, Sonipat 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 petition is disposed of with a direction to respondent No.2 to look into the application/representation dated 06.12.2022 (Annexure P-3) and in case, after looking into the said representation 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 affording an opportunity of hearing to respondent No.4.

January 27, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No