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

CWP-2293-2023

Date of decision : 06.02.2023

Harjinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. H.C. Arora, Advocate and
Ms. Sharvi Dadhwal, Advocate for the petitioner.

Mr. Ferry Sofat, Addl. A.G. Punjab
for respondent Nos.1 to 3.

VIKAS BAHL, J. (ORAL)

This is a Civil Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondent Nos.1 to 3 to initiate action for removal of respondent No.4 from the post of Member/Municipal Councilor, Kotkapura (Faridkot) under Section 16 of the Punjab Municipal Act, 1911 on the ground that respondent No.4 has been in illegal possession of Government land for the last several years and has continued to retain his possession of the land even after being elected as a Municipal Councilor.

Learned counsel for the petitioner has submitted that the petitioner has given detailed representation dated 13.12.2022 (Annexure P-

4) to respondent No.2-Director, Local Government, Punjab, Chandigarh, for removal of respondent No.4 from the post of Municipal Councilor and in the said representation, it has specifically been mentioned that vide order dated 22.11.2017 passed by the Sub Divisional Magistrate-cum-Collector, Sub Division, Kotkapura, it has been found that respondent No.4 was in illegal possession of Government land. It has also been detailed in the said representation that the land measuring 1 kanal 10 marlas belonging to the Punjab Government was in illegal possession of respondent No.4 but however, despite several complaints, no action was taken and thereafter, writ petition was filed in this Court and it is only thereafter that the Deputy Commissioner, Faridkot, had directed the Tehsildar, Kotkapura to file a case under Sections 4 and 5 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 in the Court of the Sub Divisional Magistrate-cum-Collector, Sub Division Kotkapura. Thereafter, the order was passed by the Sub Divisional Magistrate-cum-Collector for evicting respondent No.4. It has also been stated that one FIR was also registered against respondent No.4.

Learned counsel for the petitioner has submitted that the petitioner would be satisfied in case, respondent No.2 considers the representation dated 13.12.2022 (Annexure P-4) and in case, respondent No.2 is of the opinion that action is to be taken against respondent No.4 then the same be taken in accordance with law and after granting an opportunity of hearing to respondent No.4.

Learned State Counsel appearing on behalf of respondent Nos.1 to 3 has submitted that respondent No.2 would look into representation

dated 13.12.2022 (Annexure P-4) and in case, respondent No.2 finds that action is required to be taken against respondent No.4 then the same would be taken after following the principle of natural justice.

Keeping in view the abovesaid facts and circumstances, the present Civil Writ Petition is disposed of with directions to respondent No.2 to look into representation dated 13.12.2022 (Annexure P-4) as expeditiously as possible preferably within a period of three weeks from today and in case, respondent No.2 comes to the conclusion that action, in accordance with law, is to be taken against respondent No.4 then the same be done after following due procedure and also giving an opportunity of hearing to respondent No.4.

06.02.2023

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No