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

CWP No.4088 of 2021

Date of Decision: 05.09.2023

Vedpal

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Raghav Goel, Advocate for
Mr. Govind Rana, Advocate
for the petitioner.

Ms. Upasna Dhawan, AAG, Haryana.

RAJESH BHARDWAJ J.

Present writ petition has been filed for issuance of a writ in the nature of certiorari for quashing the orders dated 27.01.2021 (Annexure P-5), 02.09.2020 (Annexure P-4) passed by respondents No.1 and 2, respectively whereby the petitioner, who has been elected Sarpanch of village Kaami Block Murthal District Sonapat, has been removed in exercise of powers under Section 51(3) of the Haryana Panchayati Raj Act, 1994. Further prayer has been made for directing respondent No.3 to supply copy of enquiry report dated 04.08.2020 to the petitioner before proceeding against him under the provisions of Haryana Panchayati Raj Act, 1994.

When the case came up for hearing on 22.02.2021, learned counsel for the petitioner had submitted that the inquiry report dated 04.08.2020 is available with him and thus, the second prayer made in the

petition was not pressed. Hence, this petition is pursued only *qua* the prayer pertaining to the removal of petitioner from the post of Sarpanch.

Learned counsel for the petitioner has submitted that the petitioner was elected as a Sarpanch of village Kaami Block Murthal, District Sonipat in February 2016. The petitioner was served with a show cause notice dated 28.02.2020 (Annexure P-1) by respondent No.1 and he was called upon to file his reply to the same. Pursuant to the same, the petitioner filed his comprehensive reply and produced the entire record of Gram Panchayat before respondent No.2. About six months thereafter, the petitioner was issued show cause notices dated 14.08.2020 and 25.08.2020 directing him to appear before respondent No.2 for personal hearing. He submits that the petitioner appeared before respondent No.2 with the requisite record. Though the petitioner prayed for supplying the copy of regular enquiry report dated 04.08.2020, however same was not supplied to him. He submits that without supplying the copy of regular enquiry report, the petitioner was illegally placed under suspension under Section 51 (3) of the Haryana Panchayati Raj Act 1994 (for short 'the Act') vide order dated 02.09.2020. He further submits that the show cause notice dated 25.08.2020 and the impugned order dated 02.09.2020 are totally non speaking and cryptic as the same are passed without application of the judicial mind by respondent No.2. He submits that the impugned order dated 02.09.2020 was passed relying upon the inquiry report dated 04.08.2020, however, the same was never supplied to the petitioner. He submits that the petitioner was never afforded an effective opportunity to defend himself and thus, the impugned orders were passed in violation of the principles of Natural Justice. He further submits that the allegations made against the petitioner are false and frivolous as the petitioner was

elected as Sarpanch in the year 2016 whereas the allegations pertaining to the digging of pond pertains to the period prior to his elections as Sarpanch. He submits that the resolution regarding the digging of the pond was passed by the earlier Panchayats, thus, the petitioner has been falsely roped in the frivolous allegations. It is submitted that at the first instance, the Gram Panchayat passed the resolution dated 20.10.2010, thereafter, the Additional District Commissioner, Sonipat granted permission for digging the pond vide order dated 07.11.2014 based on the resolution dated 06.06.2014. He submits that after having been elected as Sarpanch, on the demand of the residents, the petitioner commenced the work in accordance with the resolution dated 16.04.2016. The Additional Deputy Commissioner, Sonipat also granted approval for the construction of this pond vide order dated 28.10.2016 along with the estimate. He also submits that the allegation of allotment of 100 square yards of the plot by misusing or altering the record against the petitioner is also baseless as the eligibility for getting the plot was fixed by the committee of which the petitioner was never a member. He submits that the other allegations regarding spending the amount on cleanliness of the village as well as the stadium are also false and frivolous as the amount has been spent by the petitioner after passing the resolution by the Gram Panchayat. He submits that respondent No.2 has exceeded the jurisdiction as the impugned order is beyond the scope of Section 51 of the Act. He further submits that aggrieved by the order dated 02.09.2020, the petitioner filed the statutory appeal under Section 51(1) of the Act but the same was illegally dismissed by respondent No.1. He submits that respondent No.1 has dismissed the appeal filed by the petitioner and gave findings based on conjectures and surmises. He submits that the findings arrived at by respondent No.1 is beyond the

evidence on record and thus to the utter violation of the statutory provisions of law settled. He submits that the petitioner has also otherwise deposited an amount of Rs.12,46,000/-. He further submits that the Gram Sachiv, namely, Surjit, against whom also the proceedings were initiated, has already died. Learned counsel for the petitioner has placed reliance upon the judgments passed by this Court in “***Ram Narain vs. State of Punjab and another***”, CWP No.6788 of 1975, decided on 08.02.1983 and “***Jagtar Singh vs. State of Haryana and another***”, CWP No.12767 of 2003, decided on 09.10.2003 in support of his contentions. He submits that in view of the facts and circumstances of this case, the impugned orders deserve to be quashed.

After issuance of notice of motion dated 26.02.2021, the State filed the reply dated 10.09.2021 of Rajesh Tiwana, Block Development & Panchayat Officer, Murthal, District Sonipat on behalf of respondents No.1 to 3.

Per contra, learned State counsel has opposed the submissions made by learned counsel for the petitioner. She has submitted that the petitioner was found guilty for causing loss of Rs.1,67,325/- by way of submitting forged bills for cleaning work of village during his tenure and also for spending Rs.61,100/- from the panchayat funds for cleaning the stadium. She submits that the work was to be carried out through MGNREGA scheme but the petitioner did not carry out the same under the scheme. She further submits that the petitioner was found guilty for getting his name entered in the allotment list of 100 square yards residential plot by way of tampering the record and also succeeded in obtaining the plot. Later on in the inquiry conducted by the Block Development & Panchayat Officer, the petitioner was found ineligible for getting allotment of plot.

She submits that during the preliminary inquiry, it was found that the petitioner being the Sarpanch, got the digging work of the johar (pond) done in violation of the statutory rules. She submits that regular inquiry was conducted by the senior officers of the rank of Commissioner, Municipal Corporation for the allegations levelled against the petitioner. She submits that the petitioner was given full opportunity of being heard during the course of regular inquiry. Reply filed by the petitioner to the show cause notices were perused and submissions made by him during personal hearing were duly appreciated. She submits that the petitioner was afforded complete opportunity of leading evidences in his defence, thus, the impugned orders were passed after hearing the petitioner and perusing the record. Hence, there is no violation of the principles of Natural Justice as contended by learned counsel for the petitioner. She further submits that tenure of the petitioner expired on 23.02.2021 and since then, charge of the Gram Panchayat is with the Administrator-cum-BDPO. She submits that the allegations against the petitioner were duly established during the regular inquiry conducted and thus, the impugned orders suffer from no illegality whatsoever. However, she has submitted that though the petitioner has deposited an amount of Rs.12,46,000/- but that would not prove the impugned orders passed against him to be illegal. Thus, the present petition being devoid of merit deserves to be dismissed.

I have heard learned counsel for the parties and perused the material on record.

After hearing learned counsel for the parties and perusing the record, it is apparent that the petitioner was elected as Sarpanch in February 2016 and his tenure came to an end on 23.02.2021. After having been elected as Sarpanch, a complaint was received against the petitioner,

on the basis of which, inquiry was initiated against him. He was served with a show cause notice dated 28.02.2020 and was provided an opportunity to file reply to the same and thereafter, opportunity of personal hearing was also granted to the petitioner. In response to the same, the petitioner filed his detailed reply, which was duly appreciated. Respondent No.2-Deputy Commissioner vide his order dated 25.08.2020 directed the petitioner to submit documents in his defence. A preliminary inquiry was carried out. The record was perused and the petitioner was personally heard by respondent No.2. Thus, respondent No.2 found the allegations prima facie proved and thus, vide the impugned order dated 02.09.2020 by invoking the powers under Section 51(3) of the Act, the petitioner was suspended. Aggrieved by the same, the petitioner filed an appeal under Section 51(5) of the Act. The record of the preliminary inquiry and data of the regular inquiry was perused and finding no merit in the appeal, respondent No.1 dismissed the same vide impugned order dated 27.01.2021. A copy of preliminary inquiry conducted has also been placed on record by the State along with the reply filed. It has been found that Killa No.45//15/2/16 bearing Khewat No.506, land is not reserved for johar but the Sarpanch in violation of the rules had invested the amount of Rs.8,37,082/- in digging the johar whereas as per letter dated 28.10.2016, the estimated amount approved was of Rs.7,42,000/-. During the inquiry it was found according to Jamabandi for the year 2017-18, the Gram Panchayat was the owner of the said land. Nature of the land has been entered as Chai and thus, the land was not reserved for johar and hence, the work had been carried out in an illegal manner. For the another charge regarding the allotment of 100 square yards plot, it was found that the petitioner had got the plot by tampering the panchayat record as the report

submitted by the BDPO did not find mention the name of Sarpanch in the eligible persons but he got entered his name in the list of eligible persons by tampering with the Panchayat record. The third charge regarding causing the loss of Rs.1,67,385/- was found to have been caused by preparing false bills. Though, it has been submitted before this Court that the petitioner has deposited an amount of Rs.12,46,000/- but that would not *ipso facto* negate the impugned orders.

Learned counsel for the petitioner though has relied upon ***Ram Narain's case and Jagtar Singh's case (supra)***, however, in the facts and circumstances of the case where the petitioner has been granted an opportunity of hearing, this Court finds the judgments relied upon to be distinguishable on the facts and circumstances of the present case.|

Hence, this Court does not find any merit in the petition to interfere in the impugned orders passed dated 27.01.2021 (Annexure P-5) and 02.09.2020 (Annexure P-4). Resultantly, the present petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

05.09.2023

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Whether speaking/reasoned : Yes/No
Whether reportable or not : Yes/No