

110

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

CM-10196-CWP-2023 in/and
CWP-9261-2021 (O&M)
Date of decision: 04.07.2023

Jaskaran Singh Sarpanch @ Leepy

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Navjot Singh, Advocate for the petitioner.

Mr. Ferry Sofat, Addl. A.G. Punjab
for respondent Nos.1 to 4.

Mr. Ashok Bhardwaj, Advocate for applicant-Avtar Singh.

VIKAS BAHL, J. (ORAL)

CM-10196-CWP-2023

1. This is an application filed under Order 9 Rule 9 read with Section 151 CPC for restoration of the case and recalling of order dated 16.05.2023.

2. For the reasons stated in the application which is duly supported by an affidavit, the present application is allowed and order dated 16.05.2023 is recalled and the main case is restored to its original number.

Main case

1. 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 certiorari for quashing of order dated 22.03.2021 (Annexure P-5), whereby the present petitioner was suspended from the post of Sarpanch by respondent No.2.

2. Learned counsel for the petitioner has submitted that the impugned order dated 22.03.2021 (Annexure P-5) has been passed by the Director-cum-Secretary, Rural Development and Panchayat, Punjab and thus, his right of appeal under Section 20(6) of the Punjab Panchayati Raj Act, 1994 (hereinafter to be referred as “the Act”) has been taken away inasmuch as the appeal lies before the Secretary, Rural Development and Panchayat, Punjab. It is further submitted that although, in Section 20(6) of the Act, it has been mentioned that the appeal is to be filed before the State Government but it is the Secretary of the Government of Punjab which entertains the said appeal.

3. Learned State Counsel has not disputed the fact that the appeal against the order of the Government under Section 20(6) of the Act lies before the Secretary, Rural Development and Panchayat, Punjab.

4. Learned counsel for the applicant-Avtar Singh has submitted that in fact, the intent of the officer was to pass the order as the Director but on account of an inadvertent error, while signing the order, the designation Director-cum-Secretary, Rural Development and Panchayat Punjab, has been mentioned.

5. During the course of arguments, on account of the said anomaly, consensus has arisen between the parties to the effect that the impugned order be set aside and respondent No.2-Director be directed to decide the case afresh in a time bound manner.

6. Keeping in view the abovesaid facts and circumstances, and also the consensus arrived at between the learned counsels for the parties, impugned order dated 22.03.2021 (Annexure P-5) is set aside and the Director, Department of Rural Development and Panchayat, Punjab is directed to reconsider the matter afresh and decide the same as expeditiously as possible preferably within a period of six weeks from the date of receipt of certified copy of the present order.

7. It would be open to all the parties to raise all the pleas as are available to them.

8. It is clarified that this Court has not opined on the merits of the case and it would be open to respondent No.2 to decide the case afresh in accordance with law and independently after hearing both the parties.

9. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

04.07.2023

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No