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

CWP-9006-2022

Date of decision:02.05.2023

JASPAL SINGH AND ORS.

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Prateek Pandit, Advocate
for the petitioners.

Mr. Maninder Singh, DAG, Punjab

Mr. V.K. Sandhir, Advocate
for respondents No.7 and 8.

SURESHWAR THAKUR, J. (ORAL)

1. Reply by way of an affidavit to the petition has been placed on record by the State, which is taken on record.

2. The petitioners allege that co-respondents No.7 and 8, had made encroachments, upon the lands owned by Gram Panchayat. However, a motion became laid before the Director, Rural Development and Panchayats Department, Government of Punjab, at the instance of the aggrieved, from the above act of encroachments, made over the panchayat lands, by co-respondents No.7 and 8, who are respectively the Sarpanch, and, his son. The said resulted in an exoneration order becoming drawn, as carried in Annexure P-20, upon the said co-respondents No.7 and 8.

3. A challenge is made to the said order, as, comprised in Annexure P-

20. A perusal of the reply on affidavit submitted to the writ petition on behalf of

the respondents concerned, discloses, that the remedy as available to the petitioners against the drawing of Annexure P-20, is to make thereagainst an appeal, thus in terms of Section 20 (6) of the Punjab Panchayati Raj Act, 1994, before the Competent Appellate Authority. However, a perusal of the said provision(s), which become extracted hereinafter reflects, that the remedy of appeal, as prescribed therein, is available only to those aggrieved, who suffer either a verdict of suspension or removal as such from the democratically elected offices concerned.

“20. Suspension and removal of Panch and Sarpanch

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(6) Any person aggrieved by an order of removal or suspension passed under this section, may, within a period of thirty days from the date of communication of the order, prefer an appeal to the State Government.”

4. Resultantly, such aggrieved would be obviously only the removed Panch or Sarpanch or the suspended Panch or Sarpanch, but cannot be the whistle blower concerned, as are the present petitioners. Therefore, the above remedy, is not available to be re-coursed by the petitioners against Annexure P-20.

5. Be that as it may, there are certain disputed questions of law involved in the instant petition, as are also involved in Annexure P-20, and, the said disputed questions of fact, can be settled only on a trial, in accordance with law being made in respect thereof, before the jurisdictional Competent Statutory Authority concerned, which at this stage is not this Court, but is the Statutory Authority contemplated, under, the The Punjab Village Common Lands (Regulation) Act, 1961.

6. In the light of the above, since in terms of the statutory remedy yet available to the Gram Panchayat concerned, to seek evictions of co-respondents

No.7 and 8 from the petition lands, whereupon on a lawful order of eviction being made on the said motion, thus against the encroachers concerned, that thereafter the Panch and Sarpanch concerned, may become amenable to become lawfully ordered to be removed or suspended, from their democratically elected offices, thus at this stage, this Court, does not deem it fit, and, appropriate to determine the said disputed question(s) of fact.

7. In consequence, at this stage the writ petition is mis-constituted, and, is dismissed, but leaving liberty to the Collector concerned, to make an expeditious decision positively within 6 months, on the relevant motion, if already is cast, and, if not cast to yet do so. If a binding, and, conclusive decision is made thereon, thus in the said event, the whistle blower concerned, may proceed to access this Court, for any relevant order being made, upon, the errant Panch or the Sarpanch concerned, thus for theirs being ordered to be either suspended or removed, from their respectively adorned democratic elected offices. Costs/security, if any, as deposited by the petitioners be released in their favour.

(SURESHWAR THAKUR)
JUDGE

02.05.2023
Ithlesh

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No