

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-12869-2023

Date of decision : 02.06.2023

Tarlochan Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Jaspreet Singh Brar, Advocate for the petitioners.

Mr.Ferry Sofat, Addl.A.G. Punjab for respondents no.1 to 4.

VIKAS BAHL, J.(ORAL)

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 mandamus directing respondent no.2 to decide the representation dated 28.03.2023 bearing Diary no.369 dated 29.03.2023 (Annexure P-19) submitted by petitioner no.1 requesting respondent no.2 to take appropriate action under Section 20(1)(d) of the Punjab Panchayati Raj Act, 1994 (in short “the Act”) against respondents no.5 to 7 who are Panchs of the Gram Panchayat.

2. Section 20(1)(d) of the Punjab Panchayati Raj Act, 1994 is reproduced hereinbelow:-

“20. Suspension and removal of Panch and Sarpanch --(1) The Director may, after such enquiry as he may deem fit, remove any Sarpanch or Panch: -

(a) on any of the grounds mentioned in section 208; or

(b) who refuses to act or becomes incapable of acting; or

(c) who, being a Sarpanch, without reasonable cause, fails to hold meetings of the Gram Panchayat as required under sub-section (1) of section 16 for a period of two consecutive months; or

(d) who, without reasonable cause, absents himself for more than two consecutive months from the meetings of the Gram Panchayat.”

3. Learned counsel for the petitioners has submitted that the petitioners have given a representation dated 28.03.2023 to the Director, Rural Development and Panchayat Department and has prayed that the Director be directed to consider the said representation and take appropriate action against respondents no.5 to 7. A pointed query has been raised by this Court to the learned counsel for the petitioners to refer to the allegations/averments made in the said representation which would attract the provisions of Section 20(1)(d) of the Act. Learned counsel for the petitioners has fairly submitted that in the entire representation, there is no averment to the effect that respondents no.5 to 7 had, without reasonable cause, absented themselves for more than two consecutive months from the meeting of the Gram Panchayat. A perusal of the representation would also show that although, reference has been made to certain meetings while stating that respondents no.5 to 7 were not present but the said averments would not attract the provisions of Section 20(1)(d) of the Act as the mandate of the said Section is that respondents no.5 to 7 should have absented themselves for more than two consecutive months from the meeting of the Gram Panchayat. Thus, even if the averments made in the representation are taken to be true, then also the provisions of Section 20(1)(d) of the Act are not attracted and thus, the prayer of the petitioners to direct respondent no.2 to take appropriate action under Section 20(1)(d) of the Act on the basis of averments made in the representation deserves to be rejected.

4. Moreover, a perusal of Section 20 of the Act would show that the power to suspend and to remove a Panch / Sarpanch is a power vested

which have been enumerated in Section 20 of the Act. The use of the word “may” shows that the same is a discretionary power vested with the Director which obviously has to be exercised judiciously. The said section does not provide for a mandate to the Director to act upon every complaint given by a private citizen. At any rate, since the necessary allegations constituting the grounds for removal or suspension as mentioned in sub clause (b) have not been made in the representation given to the Director, the present petition is meritless and thus, deserves to be dismissed. Accordingly, the present petition is dismissed.

(VIKAS BAHL)
JUDGE

June 02, 2023
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No