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

CWP No.14476 of 2023

Date of Decision: 14.07.2023

Jasveer Kaur and others**..... Petitioners**

Versus

State of Punjab and others**..... Respondents**

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Manish Kumar Singla, Advocate
for the petitioners.

Mr. Himmat Singh Sidhu, Advocate
for the caveators/respondents No.3 & 4.

RAJESH BHARDWAJ J. (ORAL)

The present writ petition has been 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 08.02.2023 (Annexure P-5) passed by respondent No.3 and order dated 11.05.2023 (Annexure P-7) passed by respondent No.2.

Learned counsel for the petitioners has vehemently contended that petitioner No.1 is the sitting Sarpanch whereas petitioners No.2 to 4 are the elected Panchas, who have suffered high handedness of the respondents-authorities who passed the impugned orders, which are totally against the evidence on record and the law settled, thus, deserve to be set aside.

It has been contended by learned counsel for the petitioners that the Gram Panchayat, Fatehpur consists of one Sarpanch and five Panches. He has submitted that petitioner No.1 is the Sarpanch whereas petitioners No.2 to 4 are the Panchas of Gram Panchayat, Fatehpur. He

submits that the petitioners opposed the candidature of the local MLA belonging to the ruling party and thus, earned their grudges. He submits that petitioners were served with the notice dated 08.12.2022 along with the report dated 03.11.2022 whereas, no complaint was supplied to them. He submits that in response to the notices received, the petitioners submitted their detailed reply which has been received by the respondents on 30.12.2022. He submits that by not giving any opportunity of hearing to the petitioners, respondent No.3 i.e. the Director Rural Development and Panchayat Department, Punjab passed the impugned order dated 08.02.2023 which is totally cryptic and non speaking. He submits that aggrieved by the same, the petitioners filed an appeal along with the stay application before respondent No.1. However, without appreciating the submissions made by the petitioners, respondent No.1 dismissed the same in a mechanical manner by way of passing the impugned order dated 11.05.2023. He submits that neither the reply filed by the petitioners nor the arguments raised by them were appreciated by the respondents-authorities and thus, the impugned orders were passed in a pre-determined manner. He submits that as per law settled, the Appellate Authorities are bound to pass the reasoned order by assigning reasons for arriving at the decision but the same has not been done in the present case. He relies upon the decision passed by Hon'ble the Supreme Court in "***Om Parkash Sarpanch vs. Deputy Commissioner, Sirsa***", 2001(3) RCR (Civil) 628 and in "***Gram Panchayat Mana Talwandi vs. Commissioner, Rural Development and Panchayat Department and others***", CWP-13288-2021, decided on 22.09.2022.

He submits that neither the petitioners have been joined by respondent No.5 in any inquiry nor the copy of the inquiry has been supplied to them. He submits that it is only the report dated 03.11.2022, which was supplied to them while issuing the notice dated 08.12.2022. He has submitted that the petitioners have been provided protection under Section 218 of the Punjab Panchayati Raj Act, 1994 (for short 'the Act') but the same has been totally ignored by the respondents-authorities while passing the impugned orders. He has submitted that the letter dated 03.11.2022 was against the Sarpanch, i.e. petitioner No.1 but petitioners No.2 to 4, who are elected Panches have also been suspended whereas no action has been taken against rest of 02 Panches as they have proximity with the local MLA. He has submitted that case of the petitioners do not fall under Section 20 of the Act thus the suspension of the petitioners is totally against the statutory provisions of the Act. It has been submitted that the impugned orders have been passed in a mechanical manner which is totally in violation of the provisions of Section 20 of the Act and thus, being against the law settled deserve to be set aside.

Learned counsel for the caveator has vehemently opposed the contentions raised by learned counsel for the petitioners and has stated that the petitioners have been rightly suspended as the charges against them were duly proved.

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

There is no denial to the fact that petitioner No.1 is the elected Sarpanch whereas petitioners No.2 to 4 are the elected Panches.

As apparent from the record, DDPO, Shri Fatehgarh Sahib vide letter

dated 03.11.2022 and 04.01.2023 had sent report regarding the allegations pertaining to taking and selling of sand from Shamlat land of Gram Panchayat, Fatehpur. It was further alleged that a false presence in the mustroll under the Manrega scheme had been shown and despite making payments, no open Gym, swings and sports material have been installed in the village despite having been issued repeated directions. *Prima facie* it was found that Smt. Jasveer Kaur-Sarpanch, Sh. Jagwinder Singh-Panch, Sh. Jagminder Singh-Panch and Smt. Jasvir Kaur, Panch have committed negligence in performing their duty. It was reported that all these four members of the Panchayat had caused financial loss to the Panchayat and therefore, a disciplinary action was recommended against them. They were issued notice under Section 20 of the Act vide office letter dated 08.12.2022 and were provided the opportunity to file their replies within 15 days. The case was fixed for personal hearing for 06.02.2023 and 08.02.2023. The petitioners appeared before the concerned authority on 08.02.2023. On hearing, it was found that despite having been issued repeated directions, the directions were not complied with and *prima facie* they were found to have committed negligence in performing their legal duties and thus, cause financial loss to the Panchayat. Finding the continuation of the petitioners on their respective posts not in the public interest, they were suspended vide order dated 08.02.2023 by the Competent Authority while exercising the powers under Section 20 of the Punjab Panchayati Raj Act. Aggrieved by the same, the petitioners filed appeal under Section 20(6) of the Punjab Panchayati Raj Act, praying for setting aside the impugned order dated 08.02.2023 before respondent No.1. Respondent No.1 issued notice in the appeal and heard both the sides. On hearing and perusing the record,

it was found that the DDPO, Shri Fatehgarh Sahib vide his letter dated 03.11.2022 and 04.01.2023 had sent a report to the Director regarding the non performance of the statutory duties by the petitioners on the basis of the various allegations viz selling the soil from the Panchayati land, marking fictitious presence in the mustroll of Manrega, non installing of the sports equipments despite having received the grant for the same etc. A show cause notice was issued and personal hearing was also given to the petitioners. Subsequently, all of them were suspended. A regular Inquiry had already been instituted against them to be carried out by ADC(D), Fatehgarh Sahib. *Prima facie*, the petitioners were found having committed the irregularities as alleged. It had been observed in the report filed that the record pertaining to the Manrega was not submitted by the petitioners despite having been granted repeated opportunities and an embezzlement of Rs.75070/- was found to have been committed. As a result, the disciplinary action under Section 216 of the Panchayati Raj Act had been initiated. The petitioners had been granted the opportunity to file their reply and they were granted the personal hearings as well. The regular inquiry has already been initiated to be conducted by ADC(D), Fatehgarh Sahib as mentioned above. The veracity of the allegations would be assessed only on the conclusion of the regular inquiry already initiated against the petitioners. There are disputed questions of facts which cannot be decided by this Court while exercising its writ jurisdiction.

There is no dispute regarding the Judicial Precedents relied upon by the petitioners, however in the facts and circumstances of the present case, the same are distinguishable, and thus, this Court do not

find any perversity in the orders passed by respondents No.1 & 2 and hence, the petition being devoid of any merit is hereby dismissed.

14.07.2023

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Whether speaking/reasoned

Whether reportable or not

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Yes/No

Yes/No

(RAJESH BHARDWAJ)
JUDGE