

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

CWP-15854-2023

Date of Decision: 26.07.2023

Dilbagh Singh

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Nakul Sharma, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

Petitioner has approached this Court praying for quashing of impugned order dated 25.05.2023 (Annexure P-3) passed by respondent No.2 and order dated 22.06.2023 (Annexure P-5) passed by respondent No.1, vide which petitioner has been suspended from the post of Sarpanch and appeal filed by the petitioner was dismissed.

Learned counsel for the petitioner has vehemently contended that the petitioner was the sitting Sarpanch of Village Gill Waraich and has become victim of the high handedness of the respondents. He has submitted that the petitioner was served with a notice on the basis of false and frivolous allegations regarding misappropriation of old bricks and thus, caused financial loss to the Gram Panchayat amounting to Rs.5,52,490/-.He has submitted that the petitioner remained Sarpanch of the Village in the year 2019 and thereafter, he was malafidely implicated on the basis of the false allegations. He has submitted that BDPO has written letter dated 07.12.2022 to Manpreet Singh, JE, Block Tarn Taran, wherein, it was written that Gram Panchayat Gill Waraich made a complaint in writing to him that measurement of bricks and stones extracted from streets and roads by the Gram Panchayat had not been conducted by JE and he was directed

to conduct the measurement of the extracted bricks within two days. He has submitted that in response to the same, the JE responded to the BDPO vide his letter dated 01.06.2023 (Annexure P-7) and it was informed that the measurement of the bricks and stones was conducted on 14.12.2022 and Secretary Jaswinder Singh found the numbers of brickbats to be corrected as shown in stock register and it came to be about 110696 bricks and thus, report was submitted. He has submitted that in view of the same, it is apparent that the allegations made against the petitioner were not substantiated. He has submitted that notice was issued in a premeditated manner and no opportunity of personal hearing was given to the petitioner to explain the allegation made against him. He has submitted that by violating the principles of natural justice, the petitioner was suspended from the post of Sarpanch under Section 20(5) of Punjab Panchayati Raj Act, 1994 vide order dated 25.05.2023 (Annexure P-3) by the Director, Rural Development & Panchayat. He has submitted that the impugned order dated 25.05.2023 is totally in violation of statutory provisions of the Act and against the principles of natural justice and thus, deserves to be set aside. He has submitted that the petitioner duly assailed the order dated 25.05.2023 by way of appeal under Section 20(6) of the Punjab Panchayati Raj Act, 1994 before the learned Financial Commissioner, however, the learned Financial Commissioner did not appreciate the arguments raised by learned counsel for the petitioner and thus, in a premeditated manner dismissed the same by upholding the suspension of petitioner vide order dated 22.06.2023 (Annexure P-5). He has submitted that no record was perused by both the authorities and the learned Financial Commissioner dismissed the appeal without appreciating the facts and circumstances of the case and the law

settled. He has submitted that the petitioner is an elected Sarpanch whose tenure would come to an end by December 2023 and thus, he has been intentionally targeted at this stage of his tenure. He has further submitted that in view of the overall facts and circumstances, the impugned orders deserve to be quashed.

Heard.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that the petitioner is an elected Sarpanch of the village. The petitioner was served with a show cause notice dated 05.05.2023 on the basis of the allegations regarding causing financial loss of Rs.5,52,490/- to the Gram Panchayat. It was alleged that 128486 bricks had been extracted from the passage during the year 2015-2016, which were misappropriated resulted in financial loss to the Gram Panchayat. The petitioner was apprised of his right to file the reply within 15 days and the case was fixed for personal hearing for 01.05.2023, 22.05.2023 and 25.05.2023. The petitioner duly appeared before the concerned authorities and explained regarding the allegations, however, show cause notice was issued on the basis of the BDPO report, where *prima facie* case of misappropriation was found against the petitioner, thus, he was suspended from the post of Sarpanch under Section 20(5) of the Punjab Panchayati Raj Act, 1994. The petitioner filed an appeal under Section 20(6) of the Punjab Panchayati Raj Act, 1994, which was duly heard and the facts and circumstances of the case were appreciated and the record was perused. It was found that from the conduct of the JE, he was found to have contradicted his own report just in order to save the petitioner. The disciplinary action was also directed to be initiated against the JE. Regular

enquiry has already been initiated against the petitioner and the same is under progress.

In view of the above, this Court does not find any perversity in the impugned orders passed and thus, finding no merit in the present petition, the same is dismissed. However, the Court cannot ignore the fact that the petitioner is an elected Sarpanch and his tenure would come to an end in December 2023, thus, the concerned respondents are directed to conclude the regular enquiry initiated against the petitioner within two months from today.

26.07.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No