

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

CWP-16604-2023

Date of Decision: 02.08.2023

Som Lal and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Umesh Kumar Kanwar, Advocate, for the petitioners.

Mr. Dhirinder Kaml Saldi, Advocate,
for Caveator-respondent No.5.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing the impugned order dated 22.06.2023 (Annexure P-16) passed by respondent No.1 and order dated 20.06.2022 (Annexure P-14) passed by respondent No.2 as both the orders are illegal, arbitrary and against the provisions of Punjab Panchayati Raj Act, 1994.

It has been contended by learned counsel for the petitioners that the petitioners are the Panchs of the Gram Panchayat Mokhe, Tehsil Jalandhar and District Jalandhar, who were elected on 30.12.2018. He has submitted that the petitioners made a complaint against the Sarpanch to the BDPO on 27.10.2020 and thereafter, a reminder was also sent to the BDPO on 22.01.2021. He submits that the petitioners received notice for meeting dated 12.02.2021 through registered post on 03.02.2021, which was duly replied by them on 07.02.2021 that since they made complaint against the Sarpanch, which was pending for 15.02.2021, hence now to save the Sarpanch, notices had been issued to them. He has submitted that on

31.03.2021, DDPO sent a letter to respondent No.2 to take action against the petitioners for not attending the meeting of the Gram Panchayat and the petitioners were placed under suspension on 12.07.2021. He has submitted that the petitioners filed appeal against their suspension, which was dismissed and thereafter, they approached this Court by way of filing CWP-23896-2021, which was disposed of by this Court with a direction to Director, Department of Rural Development and Panchayats, Punjab to pass a final order within a period of eight weeks. He submits that on the basis of regular enquiry, respondent No.2 issued notice to the petitioners to appear on 21.03.2022 and in pursuance to the same, they filed their reply. He further submits that respondent No.2 issued notice for personal hearing on 20.06.2022 but the said notice was not received by the petitioners and thus, without providing any opportunity of hearing, final order of suspension was passed on 20.06.2022. He has submitted that the impugned order dated 20.06.2022 is totally non-speaking and against the provisions of Section 20 of Punjab Panchayati Raj Act, 1994 (for short 'the Act'). It is submitted that the petitioners filed an appeal before respondent No.1, wherein it was submitted by them that no opportunity of personal hearing was given to them and they were victimized for the reason that they filed complaint against Sarpanch and thus, the suspension was totally against the provisions of Section 20(d) of the Act. It is submitted that as per findings, it was observed that the petitioners failed to attend the meeting of the Gram Panchayat on 11.01.2021, 19.01.2021, 23.01.2021, 02.02.2021 and 12.02.2021, which would show that the said meetings held within one month. He submits that same is in violation of Section 20(d) of the Act

which would read that if a Panch or Sarpanch without reasonable cause, absent for more than two consecutive months from the meetings of Gram Panchayat, then he can be removed from the post, whereas, the petitioners did not violate the statutory provisions of Section 20(d) of the Act and thus, in these circumstances, the impugned orders deserves to be quashed. He has submitted that the authorities below have failed to appreciate the statutory provisions and the law settled and thus, the impugned orders are totally unsustainable in the eyes of law.

Learned counsel for respondent No.5-Caveator has submitted that the petitioners were rightly suspended vide order dated 12.07.2021 as they had failed to attend the meetings of the Gram Panchayat resulting in the stalling of development work. He has submitted that the petitioners were granted many opportunities for personal hearing but they did not avail the same and as such the petitioners were rightly placed under suspension.

Heard.

After hearing learned counsel for the petitioners and perusing the report, it is evident that the petitioners were the sitting Panchs of the village, who were elected on 30.12.2018. The action against the petitioners was initiated on the report of the BDPO, Jalandhar, wherein allegations were levelled against them that they had refused to receive the agenda of the meeting and also regarding non-attending of the meetings. On the basis of the report, the cognizance was taken and the petitioners were issued notice for replying the same. Regular enquiry report was also entrusted to Additional Deputy Commissioner (D), Jalandhar. Report of the Additional Deputy Commissioner (D) was received on 04.01.2022. It is evident from

the report that the petitioners being the Panchs of the village did not come present to attend the meeting of the Gram Panchayat and thus, did not perform their statutory duties in the development of the Gram Panchayat. Record of the case would show that the notices were sent to the petitioners on 11.01.2021, 19.01.2021, 23.01.2021, 02.02.2021 and 12.02.2021 through Chowkidar but they refused to give their signatures regarding the receipt of the same. The petitioners have simply denied that notices were ever served upon them. The petitioners were given due time for replying to the show cause notices and they were also provided opportunities of personal hearing, but they failed to come present and did not appear before the authorities for their personal hearing. Report of the regular enquiry conducted by Additional Deputy Commissioner (D), Jalandhar was also sent and thus, allegations against the petitioners were *prima facie* established and in pursuance to the same, exercising the power under Section 20(1)(2) of the Act, the petitioners were suspended. The petitioners filed appeal before the learned Financial Commissioner. The grievances raised by the petitioners were duly heard and the record was also perused. The procedure prescribed was found to have been complied with. The report of both the enquiries were appreciated. The absence of the petitioners in violation of the statutory provisions was found to have been established and thus, the appeal filed by the petitioners was dismissed. It is apparent from the record that the action against the petitioners initiated was on the basis of two enquiries, for which the petitioners were duly granted opportunities for replying and for their personal hearing. The allegations against the petitioners were duly found to have been proved. In the overall facts and circumstances and in the light of

the law settled this Court does not find any perversity in the impugned orders passed, thus the present petition being devoid of any merits, is hereby dismissed.

02.08.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No