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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.17058 of 2023
Date of decision : 07.08.2023

Amarjit Kaur

..... Petitioner

Versus

The State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

RAJESH BHARDWAJ, J. (Oral)

Present petition has been filed under Article 226 of the Constitution of India for issuing a writ in the nature of certiorari for setting aside the orders dated 22.06.2023 and 23.01.2023 passed by respondents No.1 and 2 respectively, wherein petitioner was suspended from the post of Sarpanch by passing non speaking, arbitrary and unlawful order in contravention to the provisions of Punjab Panchayati Raj Act, 1994.

It has been contended by learned counsel for the petitioner that the petitioner belongs to reserved category and was an elected Sarpanch of village Bhaini, Tehsil Anandpur Sahib, District Rupnagar. He submits that after having been elected as Sarpanch, it came to her knowledge that panchayat land was encroached upon by number of villagers and thus, huge loss was caused to the Panchayat. The petitioner made efforts for getting the recovery done from the encroachers and hence, she was opposed by the Member Panchayat, who made false complaint

against her. He submits that false and frivolous allegations regarding embezzlement were made against the petitioner. He submits that as the petitioner was not letting the other panchas to embezzle or misappropriate funds of the panchayat, conspiracy was hatched by them to remove her from the post of Sarpanch. It has been submitted that on the basis of false and frivolous complaint, illegal inquiries were conducted only in order to implicate the petitioner and thus, she was illegally suspended by respondent No.2-the Director, Rural Development and Panchayat Department vide his order dated 23.01.2023. He submits that petitioner assailed the same by way of filing an appeal before respondent No.1. However, respondent No.1 i.e. Secretary, Rural Development and Panchayat Department also failed to appreciate the submissions made by the petitioner and thus, has fallen in error in dismissing the appeal filed by the petitioner. He submits that respondents No.2 and 3 failed to appreciate that the petitioner has already filed a civil suit against the BDPO and DDPO restraining them from auctioning the panchayat land and they were also facing contempt proceedings for violation of the Courts order. He submits that allegations levelled against the husband of petitioner regarding interference are without any basis. It has also been submitted that the observations made by the Secretary, Rural Development and Panchayat Department that the petitioner appeared along with her husband and admitted the allegations are also factually incorrect. It is submitted that the impugned orders suffer from patent illegality and same were passed without granting any opportunity of hearing to the petitioner and thus, the same being unsustainable in the eyes of law deserve to be set aside.

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

It is evident that the petitioner was an elected Sarpanch of village Bhaini, Tehsil Anandpur Sahib, District Rupnagar. However, after having been appointed, respondents-authorities received the complaints against petitioner and thus, on the report received from the DDPO dated 19.04.2022 as well as report received from the BDPO dated 08.10.2021, it was recommended to take action against Smt. Amarjit Kaur, Sarpanch. It was *prima facie* found that the Sarpanch had misused her position and hence, it was recommended to take appropriate action against the petitioner. The petitioner was granted opportunity for filing her explanation within 15 days but no reply was filed by the petitioner and the case was fixed for personal hearing on 14.11.2022, 19.12.2022 and 23.01.2023. From the report of DDPO and BDPO, the allegations of unauthorized interference in the meetings and work of Panchayat by Gulzar Singh i.e. husband of petitioner were found to have been made and hence, the Director-respondent No.2 by exercising the powers under Section 20(5) of Punjab Panchayati Raj Act, 1994 suspended the petitioner. The petitioner duly assailed the same by way of filing an appeal before the Secretary, Rural Development and Panchayat Department. Then, parties were heard and record was perused. On appreciation of the same, it was found that action against the petitioner was initiated on the basis of report filed by the DDPO and BDPO. The petitioner was granted opportunity for filing her reply in response to the show cause notice issued. However, no reply was

filed and personal hearing was granted to the petitioner. The petitioner admitted the allegations against her, and hence, she was put under suspension and no illegality has been found by the Secretary, Rural Development and Panchayat Department.

This Court is of the considered opinion that the petitioner was duly served with the show cause notice and right of hearing was granted to her. The allegations were *prima facie* found to have been proved. Therefore, this Court finds no perversity in the impugned orders passed by the Competent Authorities. However, it cannot be ignored that the petitioner is an elected Sarpanch of village Bhaini, Tehsil Anandpur Sahib, District Rupnagar and the regular inquiry had been initiated against her.

In view of the facts and circumstances of this case, present petition stands dismissed. However, the respondent-State is directed to ensure the conclusion of regular inquiry initiated against the petitioner within a period of two months from today in accordance with law.

(RAJESH BHARDWAJ)
JUDGE

07.08.2023
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No