

2023:PHHC:140777

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

CWP-24823-2023

Date of Decision: 06.11.2023

Manphool Singh

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Dhirinder Kamal Saldi, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for quashing the order dated 09.02.2023 (Annexure P-11) passed by respondent No.1, whereby, the application for staying the order dated 23.01.2023 passed by respondent No.2 was dismissed and order dated 23.01.2023 (Annexure P-10) passed by respondent No.2.

It has been contended by learned counsel for the petitioner that the petitioner is the elected Sarpanch of the village and he was illegally suspended from the post vide order dated 23.01.2023. He submits that against the suspension order, the petitioner filed an appeal and the same is pending consideration before respondent No.1. He submits that as the appeal is not being heard, the petitioner approached this Court by way of filing CWP-12243-2023, which was disposed of by this Court vide order dated 31.05.2023 with a direction that the appeal filed by the petitioner be decided within three weeks from 01.06.2023. He submits that despite the order passed, the appeal has not been decided and the stay application filed by the petitioner is already declined by way of the impugned order dated 09.02.2023. He submits that the petitioner having no other alternative option, filed contempt petition, which is pending for 12.02.2024. He submits that there is no actual date given in the appeal and the term of the petitioner who is an elected Sarpanch, is going to expire on 31.12.2023. It is submitted that the appeal is a substantial right granted by the

legislature but the same is being defeated. He has placed reliance upon the judgment of Hon'ble Division Bench of this Court in Inderjit Singh vs. State of Punjab, 2013(3) RCR (Civil) 287 and submits that long suspension of an elected representative is neither in the interest of Panchayati Raj democracy nor justified in the facts and circumstances of the case. He further submits that in the facts and circumstances of the case, declining of stay application by virtue of the impugned order, deserves to be set aside when there are no chances of appeal being heard by respondent No.1.

Notice of motion.

Ms. Akshita Chauhan, Deputy Advocate General, Punjab, accepts notice on behalf of the respondent-State. She has submitted that respondent No.1 has been assigned the charge for hearing the appeal, however, there is no actual date given in the appeal for hearing.

After hearing learned counsel for the parties and perusing the record, it is apparent that the petitioner was suspended vide order dated 23.01.2023. The appeal filed by him admittedly is pending adjudication before the Appellate Court. Further there is no denial to the fact that the term of the petitioner is going to expire on 31.12.2023. In view of the same, the impugned order dated 09.02.2023 is set aside and order dated 23.01.2023, suspending the petitioner from the post of Sarpanch, would remain stayed till the decision of the appeal by the competent authority.

Petition stands disposed of accordingly.

06.11.2023
sharmila

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No

(RAJESH BHARDWAJ)
JUDGE