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

**CWP No.28340 of 2023  
Date of Decision: 16.12.2023**

**Bahadar Singh Panch**

**..... Petitioner**

**Versus**

**State of Punjab and others**

**..... Respondents**

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

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Present: Mr. Sourav, Advocate  
for the petitioner.

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**RAJESH BHARDWAJ, J.**

The petitioner approached this Court impugning order dated 11.05.2023 (Annexure P-7) passed by the Additional Chief Secretary i.e. respondent No.2 wherein he set aside the order passed by the learned Director, Rural Development and Panchayat Department i.e. respondent No.3. It has further prayed that direction be issued to respondent No.2 to maintain the status quo and respondent No.6 be restrained from performing effective duties of Sarpanch till the pendency of the present petition before this Court.

Respondent No.6, who was the elected Sarpanch of village Toosa, was suspended by respondent No.3 by exercising the power under Section 20(3) of the Punjab Panchayati Raj Act. However, in the appeal filed by him, respondent No.2 accepted the same vide impugned order dated 11.05.2023 and thus, reinstated him on the post of Sarpanch.

Learned counsel for the petitioner has vehemently

contended that respondent No.6 had forged the signatures of the petitioner along with that of one more Panch, namely, Gurcharan Singh on one of the resolutions passed by the Panchayat of village. On coming to know about the forgery and fraud committed by the Sarpanch, the Panches filed a complaint against the Sarpanch of the village i.e. respondent No.6 on 21.07.2020 to the BDPO. On the complaint filed, the BDPO i.e. respondent No.5 got the opinion of the handwriting expert, who agreed with the forgery in the signatures. He submits that on the basis of the opinion given by handwriting expert, the BDPO i.e. respondent No.5 moved the complaint of the petitioner to the SSP, Jagraon and originally, FIR No.68, dated 04.09.2020 under Sections 420, 465, 467 & 471 IPC was registered against respondent No.6. He submits that before registration of the FIR, respondent No.5 found various irregularities committed by respondent No.6. He has submitted that on the registration of the FIR, respondent No.5 recommended for taking action against respondent No.6. As a result, a show cause notice was issued to respondent No.6 under Section 20 of the Punjab Panchayati Raj Act (hereinafter referred to as 'the Act'). He submits that respondent No.6 filed his reply to the show cause notice issued and case was fixed for personal hearing on 21.12.2020, 11.01.2021 and 15.02.2020. He submits that vide letter No.4819 dated 31.05.2022 of the DDPO i.e. respondent No.4 along with report of respondent No.5, complaint was sent to the Director i.e, respondent No.3. The learned Director, on the perusal of the record, exercised his power under Section 20(3) of the Act and thus, suspended respondent No.6 from the post of Sarpanch vide his

order dated 30.06.2022. He submits that respondent No.6 assailed the same by way of filing an appeal under Section 20(6) of the Act before respondent No.2. He submits that respondent No.2 has committed gross illegality in setting aside the well reasoned order passed by respondent No.3. He has submitted that the irregularities committed by respondent No.6 were duly proved in the inquiry conducted. Besides this, the FIR was also registered on the basis of inquiry conducted but respondent No.2 failed to appreciate the same and thus, illegally set aside the order passed by the Director by accepting the appeal filed by respondent No.6 and as a result, reinstated the petitioner on the post of Sarpanch, which is totally against the settled principles of law. He submits that on bare perusal of provision of Section 20(3) of the Act, it is apparent that the Sarpanch can be suspended by the Director in case any FIR registered against him is under investigation. He submits that there is no denial to the fact that FIR was registered against respondent No.6, which is under investigation, and thus there was no illegality committed by respondent No.3 in suspending respondent No.6. However, respondent No.2 miserably failed to appreciate the same by observing that there is no finding given by the Director that mere registration of the FIR is likely to embarrass the Sarpanch in discharging his duties. He has submitted that the impugned order being against the evidence on record and the law settled deserves to be set aside.

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

Evidently, respondent No.6 was the elected Sarpanch of

village Toosa. The petitioner filed a complaint against him on the ground that respondent No.6 had forged the signatures of the Panches on the resolution. On receiving the report from the handwriting expert, FIR No.68, dated 04.09.2020 under Sections 420, 465, 467 & 471 IPC was registered against respondent No.6. Besides this, there were other allegations made regarding the irregularities committed by respondent No.6. Learned Director i.e. respondent No.3 suspended respondent No.6 by invoking his power under Section 20(3) of the Act. However, respondent No.6 succeeded in the appeal filed before respondent No.2, who set aside the order passed by the Director and reinstated him vide impugned his order dated 11.05.2023. The relevant provision under the Act is Section 20(3), which is as follows:

*“The Director may suspend any Sarpanch or Panch where a case against him in respect of any criminal offence is under investigation, inquiry or trial if, in the opinion of the Director, the charge made or proceeding taken against him is likely to embarrass him in the discharge of his duties or involves moral turpitude or defect of character.”*

Perusal of this Section would show that the Director may suspend any Sarpanch or Panch against whom any criminal offence is under investigation, inquiry or trial is pending and in the opinion of the Director, the charge made or proceeding taken against him to embarrass him in the discharge of his duties.

There is no gainsaying that FIR No.68, dated 04.09.2020 has been registered against respondent No.6 and the same is under investigation. However, it is incumbent upon the respondents to give the

findings that pendency of the criminal case (supra) is likely to cause embarrassment to him in discharging his duties or the same involves moral turpitude. The case filed against respondent No.6 is under investigation. As is apparent, there is no finding given by the Director i.e. respondent No.3 that registration of the FIR would embarrass respondent No.6 or it involves moral turpitude. Thus, in the considered opinion of this Court, the Appellate Court has rightly accepted the appeal filed by respondent No.6 and reinstated him.

In the judgments titled as *Vijay Kumar Vs. State of Punjab and others*, 2018(1) Law Herald 516 and *Gurdev Singh Vs. Financial Commissioner, Punjab and others*, 2021(1) Law Herald 870, it has been held that every appointing authority is supposed/required to select candidates having clean antecedents and image and has to be more cautious and vigilant while selecting candidates for public offices.

Thus, this Court finds that mere registration of the FIR do not meet the requirement of the provisions of Section 20(3) of the Act. Hence, the order passed by the Director has been rightly set aside by respondent No.2 i.e. Additional Chief Secretary. Thus, in the considered opinion of this Court, there is no infirmity in the order passed by respondent No.2 dated 11.05.2023. Therefore, the present petition is dismissed as such.

(RAJESH BHARDWAJ)  
JUDGE

16.12.2023

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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |