

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

CWP-28792-2023

Date of decision : 20.12.2023

Naveen Kumar

.....Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Sandeep Parkash Chahar, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for quashing the impugned notice dated 19.02.2018 (Annexure P-8) issued by respondent No.4 being illegal, null and void as respondent No.4 without following the process prescribed under Section 53(2) of the Haryana Panchayati Raj Act, 1994 i.e. to grant adequate opportunity to Sarpanch to explain then to assess the loss by passing an order in writing but in the present case without passing any such order in writing the respondent is directing petitioner to deposit the amount mentioned therein and a writ in the nature of mandamus directing respondents to grant adequate opportunity to petitioner to explain regarding materials and then to assess the loss, if any, by taking the reply of petitioner into consideration by passing an order in writing.

It has been contended by counsel for the petitioner that petitioner is the Elected Sarpanch of the Village and after having been elected as Sarpanch, he was falsely involved in a criminal case bearing FIR No.84 dated 25.03.2016, under Sections 148, 149, 302, 307, 323, 325, 506 of IPC at Police Station Rai, District Sonipat. He submits that

while the petitioner was in custody, he was served with the notice in the jail itself. He filed his replies however, no decision has been taken on the same by the respondent-authorities. He has submitted that there is no formal order passed by the respondents-authorities for initiating the action under Section 53(2) of the Haryana Panchayati Raj Act, 1994.

Notice of motion.

On asking of the Court, Ms. Upasana Dhawan, AAG, Haryana accepts notice on behalf of the State. She has opposed the submissions made by counsel for the petitioner. She has submitted that petition is not maintainable as the petitioner has remedy of assailing the impugned order passed against him under Section 53(3) of the Act.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that the petitioner was lodged in jail and his sentence was suspended on 30.03.2022. Evidently, notices were issued in his absence while he was in jail from where he sent his representation/reply. Thus, the petitioner could not file the appeal.

In view of the above, the present petition is disposed of with liberty to the petitioner to avail his remedy of filing an appeal against the impugned order within two weeks from the date of receipt of certified copy of this order. The respondents-authorities would decide the same in accordance with law. Operation of the impugned order would remain stayed till the filing of the appeal. It is made clear that if petitioner does not file any appeal, this order would be of no avail to him.

20.12.2023

m. sharma

(RAJESH BHARDWAJ)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No