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

CWP No.29286 of 2023

Date of Decision: 22.12.2023

Lakhvir Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sartaj Singh Gill, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

Present writ petition has been filed for quashing the orders dated 26.10.2023 (Annexure P-5 and P-6) passed by respondent No.1 i.e. Financial Commissioner, Department of Rural Development and Panchayats, Punjab in Appeal Nos.53 and 54 of 2023 filed under Section 20(6) of the Punjab Panchayati Raj Act, 1994, whereby the order dated 30.01.2023 (Annexure P-2) passed by respondent No.2 i.e. Director, Department of Rural Development and Panchayats suspending respondent No.4 as Sarpanch and respondent No.5 as Panch have been quashed and the case was remanded back to respondent No.2 to pass suitable order in accordance with law. Further prayer has been made for quashing the order dated 01.12.2023 (Annexure P-7) passed by

respondent No.2 whereby in pursuance to order dated 26.10.2023 passed by respondent No.1, respondent No.2 has now proceeded to reinstate respondents No.4 and 5 as Sarpanch and Panch respectively despite earlier suspending them vide its own order dated 30.01.2023 and for staying the operation of orders dated 26.10.2023 and 01.12.2023 passed by respondents No.1 and 2 respectively.

It has been submitted by learned counsel for the petitioner that the petitioner is a resident of village Boot, Tehsil & District Kapurthala. He submits that respondent No.4 is the sitting Sarpanch and respondent No.5 is the sitting Panch of the village. He submits that respondents No.4 & 5 were in illegal possession of the Panchayat Land. He submits that they built their residential houses as well as shops on the Panchayat land. He submits that they had misappropriated the grant given to the Panchayat to the tune of Rs.2,42,00,000/- for their personal gains instead of using the grant for the development of the village. He submits that the petitioner filed a complaint before the Block Development & Panchayat Officer highlighting the commission of offence by respondents No.4 & 5 and the massive loss caused to the Panchayat. He submits that the Block Development & Panchayat Officer vide letter dated 09.05.2022 requested the District Development & Panchayat Officer, Kapurthala to take necessary action against respondents No.4 & 5 under the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act'). He submits that respondent No.3 conducted an inquiry into the said allegations and sent a report dated 23.05.2022 to respondent No.2 for taking action against respondents No.4 & 5 under Section 20(5) of the

Act. He submits that on hearing, respondents No.4 & 5, respondent No.2 suspended both of them from their respective posts of Sarpanch and Panch vide order dated 30.01.2023. He submits that aggrieved by the same, respondents No.4 and 5 filed appeals bearing Nos.53/2023 and 54/2023, respectively under Section 20(6) of the Act on 17.02.2023. He submits that the appeals filed by respondents No.4 and 5 were illegally accepted by respondent No.1 vide order dated 26.10.2023 wherein he remanded the case to respondent No.2 to pass suitable order in accordance with law. He submits that in pursuance to the impugned order passed by respondent No.1, respondent No.2 vide impugned order dated 01.12.2023 had proceeded to reinstate respondents No.4 & 5 on the post of Sarpanch and Panch of the village respectively. He submits that the impugned order dated 26.10.2023 being totally against the evidence on record and the law settled deserves to be set aside. He submits that the allegations of illegal encroachment on the Panchayat land were duly substantiated against respondents No.4 & 5 and hence, respondent No.2 had suspended them by taking action in accordance with the provisions of Section 20(5) of the Act but respondent No.1 failed to appreciate the same and thus, illegally set aside the order passed by respondent No.2 dated 30.01.2023.

Heard.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that respondents No.4 & 5 are the elected Sarpanch and Panch of the village. On the complaint filed by the petitioner, an inquiry was instituted. On conclusion of inquiry, the

District Development & Panchayat Officer recommended to the Director i.e. respondent No.2 for initiating action against respondents No.4 and 5 in accordance with Section 20(5) of the Act. Resultantly, respondent No.2 suspended respondents No.4 and 5 vide his order dated 30.01.2023. However, respondents No.4 & 5 challenged the same by way of filing appeals before respondent No.1. A perusal of order dated 26.10.2023 (Annexure P-5) shows that regular inquiry was entrusted to the Additional Deputy Commissioner (D), who conducted the same in accordance with law. The regular inquiry was conducted by the Additional Deputy Commissioner(D), who submitted his inquiry report dated 15.06.2023. The Additional Deputy Commissioner(D) in the regular inquiry conducted by him exonerated respondent No.4. Hence, respondent No.1 set aside the suspension order passed by respondent No.2 vide his order dated 30.01.2023 by remanding the case to the Director i.e. respondent No.2 for passing a suitable order. Finding the facts of the case of respondent No.5 to be similar to the case of respondent No.4, similar order was passed in the appeal filed by respondent No.5. In pursuance to the same, respondents No.4 & 5 were reinstated by respondent No.2 vide his order dated 01.12.2023. Once in the regular inquiry conducted by Additional Deputy Commissioner(D), respondents were exonerated, the Appellate Authority had rightly set aside the suspension orders with a direction to respondent No.2 to pass the fresh order.

Thus, there is nothing on the record to show that the regular inquiry conducted was vitiated in any manner. Hence, this Court does not find any infirmity in the impugned order passed. Resultantly, the present petition being devoid of any merit is hereby dismissed.

22.12.2023
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(RAJESH BHARDWAJ)
JUDGE

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