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

CWP No.1617 of 2024

Date of Decision: 25.01.2024

Harmanjot Kaur Ex Sarpanch

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rajinder Singh Sidhu, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

Petitioner has approached this Court praying for quashing the impugned letter No.2266-72 dated 28.11.2023 (Annexure P-7) and Letter No.Nrega/2393-99 dated 05.01.2024 (Annexure P-8) issued by respondent No.5 whereby petitioner was called to join enquiry proceedings along with complete record of Two work Codes of developments works related to Gram Panchayat of petitioner which was initiated and completed during the tenure of petitioner under MGNREGA Scheme.

It has been contended by learned counsel for the petitioner that the petitioner was elected as a Sarpanch of the Gram Panchayat in July, 2013 and remained on the said post till August, 2018. He has submitted that one Harinder Singh filed a frivolous complaint dated

14.02.2023 before respondent No.2 against the Gram Panchayat of the petitioner and eight other Gram Panchayats alleging a scam of Rupees Five to Seven Crores. He has submitted that Harinder Singh again filed a complaint before respondent No.2 for conducting physical enquiry in the alleged scam against Parminder Singh APO MGNREGA and other employees and Sarpanches of Nine Gram Panchayats. He submits that in pursuance to the same, respondent No.5 issued the official letters to concerned MGNREGA staff to join the enquiry proceedings vide letter dated 31.10.2023. He submits that respondent No.3 issued the letter dated 08.11.2023 to respondent No.5 for producing the record. He submits that respondent No.5 issued the notice dated 15.11.2023. He has submitted that the Committee constituted by respondent No.2 had initiated the enquiry and after serving two notices to the then employees, a third notice was issued by respondent No.5 to the petitioner on 28.11.2023 and 05.01.2024. He has submitted that the enquiry initiated against the petitioner cannot be conducted as the petitioner has already ceased to be the Sarpanch and in view of the provisions of Section 216 of the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act'), no enquiry can be initiated against the Sarpanch after 02 years when he ceased to be the Sarpanch. He has submitted that as the impugned notices have been issued in violation of the provisions of Section 216 of the Act, the same deserve to be quashed.

Heard.

On hearing learned counsel for the petitioner and perusing the record, it is apparent that the petitioner was elected as a Sarpanch of

Gram Panchayat and remained on the post till August 2018. Thereafter on the basis of complaint, the alleged enquiry has been initiated. Emphasis laid by learned counsel for the petitioner is that the notice issued is in violation of the provisions of Section 216 of the Act. However, as per the statutory provisions, any action taken under Section 216 of the Act is appealable before the Appellate Authority. So far only the notice has been issued to the petitioner for which he has the legal right to appear before the concerned authority to plead his defence. In case any order is passed against the petitioner, there is a remedy available to him under the Act.

Thus, in the considered opinion of this Court, the present petition being premature is not maintainable at this stage. Accordingly, the present petition being not maintainable is disposed of with liberty to the petitioner to avail the alternative remedy as available to him in accordance with law.

(RAJESH BHARDWAJ)
JUDGE

25.01.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No