

2024:PHHC:086643



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

CWP-15793-2024 (O&M)
Date of decision : 11.07.2024

GEETA RANI AUL

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Anupam Bhardwaj, Advocate
for the petitioner.

Mr. Saurav Verma, Addl. A.G., Punjab.

Ms. Kavita Arora, Advocate
for the caveator/respondent No.2.

HARSH BUNGER, J. (ORAL)

Petitioner (Geeta Rani Aul) has filed the present writ petition under Articles 226/227 of the Constitution of India, seeking setting aside of the impugned order/notification dated 14.06.2024 (Annexure P-11), vide which, she has been removed as a Municipal Councillor, from the Nagar Panchayat/Municipal Council, Ajnala under Section 16(1)(c) of the Punjab Municipal Act, 1911 (for short 'the 1911 Act').

2. Briefly, a show cause notice dated 20.11.2023 (Annexure P-9) was served upon the petitioner calling upon her to show cause against the proposed action regarding cancellation/removal of the petitioner as Municipal Councillor under Section 16(1)(c) of the 1911 Act. Along with

the afore-said notice, details of the charges were also supplied to the petitioner, which reads as under :-

“Details of the charges against Smt. Geeta Rani, Municipal Councillor, Ward No.7, Nagar Panchayat, Ajnala.

Executive Officer, Nagar Panchayat Ajnala vide his letter No.334 dated 08.08.2023 has written that Smt. Geeta Rani ward No.7 Nagar Panchayat Ajnala has been absent for the last some time on dated 12.07.2021, 26.07.2021, 11.08.2021, 07.01.2022, 02.01.2023, 27.02.2023, 29.03.2023. The above said member was informed about the agenda on telephone and through message but the said member without any reason has been continuously remained absent. It is submitted here that she is not taking any interest in the welfare of the city. In this regard, Additional Deputy Commissioner (U.D.) Amritsar vide his letter No.1237 dated 21.08.2023 has submitted the report in which it has been mentioned as under :-

“Smt. Geeta Rani, Municipal Councillor, Ward No.7, Nagar Panchayat, Ajnala is regularly absent from the meetings and in the report it has been specified that as per the record of the Nagar Panchayat with regard to proceeding book, she is continuously absent from the meetings dated 12.07.2021, 26.07.2021, 11.08.2021, 07.01.2022, 02.01.2023, 27.02.2023, 29.03.2023.”

From the above, it is clear that on the above said date of meetings you have remained absent continuously from the same. It is establish that you are not performing your duties in a proper manner and you are negligent in the performance of your duties therefore you are guilty of the provisions of Punjab Municipal Act 1911 u/s 16(1)(C).”

2.1 The petitioner submitted her reply dated 08.12.2023 (Annexure P-10) to the afore-said Show Cause Notice (Annexure P-9);

wherein, she had *inter alia*, stated that she along with nine other Councillors, on 07.08.2023, had requested that no meeting of the house had been conducted for the last five months and the meeting, which was scheduled for 07.08.2023, was cancelled, accordingly, the Councillors had requested that a meeting be convened for holding 'No Confidence Motion' against the Chairman/President, however, no action was taken by the Executive Officer thereon. Petitioner further maintained that on 03.11.2023, ten councillors filed a writ petition before this Court, wherein, a direction was issued to the Executive Officer to take action on the representation. Petitioner further stated that with regard to the meetings dated 02.01.2023, 27.02.2023 and 29.03.2023, she had already complained to the higher officials that no meeting was held and the signatures of the Councillors were taken from their house and the signatures of the petitioner were not taken deliberately. Petitioner further stated that she was never informed from January to March, 2023 with regard to the holding of any meetings. Petitioner claimed that the Executive Officer Nagar Panchayat, Ajnala has *mala fide*ly observed that the petitioner had not attended the meetings and neither the details of the meeting attended by the petitioner were given. Petitioner also stated that the action was being taken against her as a counter-blast to her filing of writ petition along with other Councillors. Petitioner further claimed that before taking any action, their request letter dated 07.08.2023 submitted by ten Councillors, be decided. It was stated that in the last nine (09) months, the President and the Executive Officer, have not conducted any meeting. Accordingly, it was prayed that the show cause notice served upon the petitioner be consigned to the office.

3. It transpires that the afore-said reply submitted by the petitioner was considered by respondent No.1 and vide order dated

14.06.2024 (Annexure P-11), it was concluded that the petitioner remained regularly absent in the meetings dated 12.07.2021, 26.07.2021, 11.08.2021, 07.01.2022, 02.01.2023, 27.02.2023 and 29.03.2023. Accordingly, the petitioner was dis-membered from the Municipal Council/Nagar Panchayat, Ajnala.

4. In the afore-mentioned circumstances, the petitioner has filed the instant writ petition before this Court.

5. Learned counsel for the petitioner submits that respondent No.1 has erred in law and fact in passing the impugned order. It is submitted that the impugned order is politically motivated. Petitioner claims that she had been regularly attending the meetings, which is substantiated from the affidavits submitted by eight Councillors, including the petitioner, stating therein that the petitioner had been regularly attending the meetings. Learned counsel for the petitioner further submits that the impugned action against the petitioner is *mala fide* as the petitioner had been espousing her cause against the corrupt practices of respondent No.6 i.e. the President of Nagar Panchayat, Ajnala. It is further submitted that there is no material to show that the petitioner had remained absent. It is stated that the petitioner had attended the meeting on 15.12.2022 and therefore, it has wrongly been stated that the petitioner remained absent in the year 2021/2022. It is also the contention of the petitioner that although, she remained present, however, she did not sign the proceedings as she was not agreeable to the resolution. It is stated that attending the meeting and signing of the proceedings, are two different things. It is next submitted that there is nothing on record to show that the petitioner had remained absent from three consecutive meetings, as envisaged under the 1911 Act.

With the afore-said submissions, it is prayed on behalf of the petitioner that the impugned order/notification be set aside.

6. At this stage, Ms. Kavita Arora, Advocate, appears on behalf of caveator/respondent No.2 and has opposed the submissions made on behalf of the petitioner. It is submitted that the petitioner had not been attending the meetings of the Nagar Panchayat, Ajnala, therefore, she was not performing her duty and was negligent in the performance of her duties. Accordingly, a show cause notice was served upon her, to which, the petitioner had submitted her reply. However, the Additional Deputy Commissioner, Amritsar submitted a report that as per the records of the Nagar Panchayat, Ajnala, the elections were held in April, 2021 and in the meetings of the house, the petitioner remained present only on 25.05.2022, 27.06.2022 and 26.07.2022 and in the rest of the meetings, she was absent. It was further reported that as per the proceedings record, the petitioner remained regularly absent from the meetings dated 12.07.2021, 26.07.2021, 11.08.2021, 07.01.2022, 02.01.2023, 27.02.2023 and 29.03.2023. It is submitted that the petitioner's absence from the meetings is clearly borne out from the record and she has failed to controvert the same. It is further submitted that the affidavits sought to be relied upon by the petitioner, have been executed on 26.06.2024 i.e. after the passing of the impugned order dated 14.06.2024. It is submitted that no such affidavit was ever submitted before respondent No.1 either along with the reply to the show cause notice submitted by the petitioner or otherwise. Accordingly, it is submitted that the petitioner has been rightly removed/dis-membered from the Municipal Council/Nagar Panchayat, Ajnala. Accordingly, prayer for dismissal of the writ petition has been made.

7. I have heard learned counsel for the parties and perused the paper book with their able assistance.

8. Since the petitioner has been removed as Municipal Councillor under Section 16(1)(c), it would be apposite to refer to Section 16(1)(c) of the 1911 Act; which reads thus:-

16. Powers of the State Government as to removal of members. - (1) The State Government may, by notification [remove any member of a committee other than an associate member] :

- (a) xxx xxx xxx,*
- (b) xxx xxx xxx;*
- (c) if he has [without reasonable cause in the opinion of the State Government absented himself for more than three consecutive months from the meetings of the committee.]*
- (d) xxx xxx xxx;*
- (e) xxx xxx xxx;*
- (f) xxx xxx xxx;*
- (g) xxx xxx xxx.*

Provided that before the State Government notifies the removal of a member under the section, the reasons for his proposed removal shall be communicated to the member concerned and he shall be given an opportunity of tendering an explanation in writing...”

9. A perusal of the above extracted provision Section 16(1)(c) would show that the State Government may, by notification, remove any member of a committee other than an associate member; if such member of a committee has, without reasonable cause in the opinion of the State Government absented himself for more than three consecutive months from the meetings of the committee.

10. In the instant case, the Executive Officer, Nagar Panchayat Ajnala vide his letter No.334 dated 08.08.2023 had reported that the

petitioner has been absent for the last some time on dated 12.07.2021, 26.07.2021, 11.08.2021, 07.01.2022, 02.01.2023, 27.02.2023, 29.03.2023.

It was further reported that the petitioner was informed about the agenda on telephone and through message but she, without any reason, has continuously remained absent and is not taking any interest in the welfare of the city.

10.1 In this regard, Additional Deputy Commissioner (U.D.) Amritsar vide his letter No.1237 dated 21.08.2023 also submitted the following report:-

“Smt. Geeta Rani, Municipal Councillor, Ward No.7, Nagar Panchayat, Ajnala is regularly absent from the meetings and in the report it has been specified that as per the record of the Nagar Panchayat with regard to proceeding book, she is continuously absent from the meetings dated 12.07.2021, 26.07.2021, 11.08.2021, 07.01.2022, 02.01.2023, 27.02.2023, 29.03.2023.”

11. It transpires that on account of absence of petitioner from the meetings of the committee without any reasonable cause, a show cause notice dated 20.11.2023 (Annexure P-9) was served upon the petitioner calling upon her to show cause against the proposed action regarding cancellation/removal of the petitioner as Municipal Councillor under Section 16(1)(c) of the 1911 Act. Along with the afore-said notice, details of the charges were also forwarded to her. Clause 3 of the Show Cause Notice (Annexure P-9) reads as under :-

“3. That before preparation of the reply/submissions on your behalf of you need to inspect the record you may do so within the office hours at the office of Local Government (Local Government-3 Branch), Punjab Municipal Bhawan Room No.216, Plot No.3, Sector-35A, Chandigarh as per rules.”

11.1 Evidently, the petitioner submitted her reply dated 08.12.2023 (Annexure P-10) to the aforesaid Show Cause Notice dated 20.11.2023 (Annexure P-9).

12. From the reply dated 08.12.2023 (Annexure P-10) submitted by the petitioner to the aforesaid Show Cause Notice dated 20.11.2023 (Annexure P-9), it would be apparent that she has raised vague and mutually destructive plea(s), despite the fact that she was granted opportunity to inspect the record before submitting her reply. On one hand, it is being contended that the petitioner was not informed regarding any of the meetings since January, 2023 upto March, 2023 and on the other hand, it is being stated that she has attended all the meetings. It is also the stand of the petitioner that at some meeting although she was present, however she did not sign the proceedings as she was not agreeable to the resolution.

12.1 Although, it may happen that a member of the committee attended the meeting, however such member being not agreeable with the proceedings transacted in the house, refrains from signing the proceedings; however, the petitioner has failed to give the details of all such meeting, except referring to meeting dated 15.12.2022; where although she was present, however she did not sign the proceedings.

12.2 Coming to the affidavits (Annexures P-12 to P-19), it is noticed that the contents of all the affidavits are identical and one such affidavit reads as under:-

“AFFIDAVIT

Affidavit of Parminder Singh age 66 years son of Manjit Singh resident of Ward No.8, Bhakha Tara Singh, Ajnala, Amritsar, Punjab (Aadhar No.6094-0517-2313, Mob. No.98146-54141).

I, the above named deponent do hereby solemnly affirm and declare as under :-

- 1. That the deponent is Municipal Councilor of the Nagar Panchayat/Municipal Council Ajnala. Elections to the Nagar Panchayat/Municipal Council was held on 14.02.2021 and the result was declared on 17.02.2021. The deponent as well as Smt. Geeta Rani Municipal Councilor who was also elected along with the deponent has been regularly attending the meetings as enjoined upon them as per the provisions of Punjab Municipal Act 1911.*
- 2. That the allegations leveled against Smt. Geeta Rani Municipal Councilor while dismembering her from the membership of Nagar Panchayat/Municipal Council Ajnala as Municipal Councilor Ajnala vide order dated 14.06.2024 are totally false and politically motivated.*
- 3. That the deponent as well as Smt. Geeta Rani has been working for the betterment of the residents of the area, however, for the reasons which are politically motivated, Smt. Geeta Rani has been removed/dismembered as Municipal Councilor.*

Place : Ajnala.

Dated: _____.06.2024

DEPONENT”

It is evident from a perusal of the affidavits sought to be relied upon by the petitioner, that the same have been executed on 26.06.2024 i.e. after the passing of the impugned order dated 14.06.2024. Further, a vague statement has been made therein that the deponents alongwith the petitioner have been regularly attending the meetings as enjoined upon them as per the provisions of the 1911 Act.

12.3 Apparently, no such affidavit(s) were submitted before respondent No.1 either along with reply dated 08.12.2023 (Annexure P-10) submitted by petitioner to the show cause notice (Annexure P-9) or otherwise. Even otherwise, the filing of affidavits is only an afterthought.

12.4 Learned counsel for the petitioner has also failed to refer to any material to indicate that the petitioner had ever raised any objection as regards her assertion that although no meeting was held but the signatures of the councillors were taken from their house and signatures of petitioner were not taken deliberately.

13. In my considered view, the petitioner has been unable to put forth any reasonable cause before respondent No. 1, as regards her absence from the meetings of the committee. It is borne out from the impugned order dated 14.06.2024 (Annexure P-11) that as per the proceedings record of the committee, the petitioner remained regularly absent from the meetings dated 12.07.2021, 26.07.2021, 11.08.2021, 07.01.2022, 02.01.2023, 27.02.2023 and 29.03.2023. Apparently, the petitioner has remained absent for more than three consecutive months in the meetings of the committee. Learned counsel for the petitioner has failed to controvert the above said position.

14. No other point has been urged.

15. In view of the afore-mentioned facts and circumstances, I do not find any merit in this petition, resultantly, the same is dismissed.

16. All pending application (if any) shall also stand closed.

July 11, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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