IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.12169 of 2024
Decided on: 29.10.2025

Sh. Dev Raj … Petitioner

Versus

Deputy Commissioner, Shimla & another … Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?[1]

For the petitioner	:	Mr. Suneet Goel, Senior Advocate, with Mr. Vivek Negi, Advocate.
For the respondents	:	Mr. Rajpal Thakur, Additional Advocate General.

Ajay Mohan Goel, Judge

By way of this petition, the petitioner has, inter alia, prayed for the following relief:-

"*(a) Quash order dated 19.10.2024, passed by respondent No.1 (Annexure P-4).*"

2. The petitioner has assailed order dated 19.10.2024 (Annexure P-4) passed by respondent No.1, in terms whereof, respondent No.1 has suspended the petitioner from the Office of Pradhan, Gram Panchayat, Krasa, on the charge of gross negligence in the discharge of his duties with immediate effect.

3. Learning Senior Counsel for the petitioner argued that the impugned order is *non est* and not sustainable in the eyes of law, for the reason that the same is a non-speaking order, does not take note of the contentions of the petitioner which he took in the reply

[1] *Whether reporters of the local papers may be allowed to see the judgment?*

submitted by him to the Show Cause Notice and, therefore, as the impugned order is *per se* bad in law, the same is liable to be set aside. Learned senior Counsel referred to the impugned order and submitted that in Para-2 thereof, the Authority has mentioned that on the complaint which was received against the irregularities committed by the petitioner the matter was inquired by the Block Development Officer, Rohru, who submitted a detailed Enquiry report consisting of 135 pages dated 06.05.2024. Learned Senior Counsel submitted that a perusal of the impugned order demonstrates that there are not even 135 words in the impugned order which refer to the Enquiry Report *vis-a-vis* reply of the petitioner to the Show Cause Notice and the reasoning given to put the petitioner under suspension is vague and general in nature. Learned Senior Counsel further submitted that in light of the fact of that the petitioner is an elected public representative, the will of the people cannot be allowed to be throttled by the Authorities like respondent No.1 by whimsical use of power conferred upon them under the Panchayati Raj Act. He submitted that this power has to be exercised with great caution which has not been done in the present case and therefore also, the impugned order is liable to be set aside.

4. On the other hand, learned Additional Advocate General

submitted that the order is a self-speaking order which mentions the reasons as to why the petitioner has been put under suspension and therefore, as there is no merit in the present petition the same is liable to be dismissed.

5. I have heard learned Senior Counsel for the petitioner as well as learned Additional Advocate General and have also carefully gone through the impugned order.

6. For ready reference, the impugned order is reproduced hereinbelow:-

> "***Order***
>
> *Whereas, a complaint regarding irregularities in Development Works of MGNREGA and 15th FC executed by Pradhan Gram Panchayat Karasa of Development Block Rohru was made by Sh. Geeta Ram and others of Tehsil Rohru District Shimla.*
>
> *Whereas, the matter was got inquired through Block Development Officer Rohru. The Block Development Officer Rohru submitted a detailed Inquiry report consisting of 135 pages in the office of undersigned 6th May, 2024. As per the Inquiry report grave irregularities in the execution of developmental works were committed by the Gram Panchayat Karasa.*
>
> *Whereas, a Show Cause notice dated 1.7.2024 was issued to Sh. Dev Raj, Pradhan, Gram Panchayat Krasa, Tehsil Rohru and said Pradhan was asked to explain his position on the above mentioned charges. The Pradhan*

submitted his charge wise reply through BDO Rohru on 4.9.2024.

Whereas, the reply submitted by Pradhan was duly considered in detail on the basis of office record and facts of the matter. To check the matter the preliminary inquiry report was also perused carefully. On perusal of preliminary inquiry and reply of the Pradhan the undersigned has arrived on the conclusion that the Pradhan has failed to produce any concrete documentary evidence in support of his defence on the charges like irregular payment for purchase of material, fake bills, diversion of woks, incomplete works, non payment of wages direct into the accounts of labour, payment to single vendor without inviting quotations, excess payment works without budget provisions/technical and expenditure sanction etc. The irregularities mentioned herein above are serious in nature and attracts provisions of H.P. Panchayati Raj Act and Rules made thereunder for appropriate action for misconduct and gross negligence in discharge of duties as Pradhan and misutilization of government funds.

Now, therefore, I Anupam Kashyap, Deputy Commissioner, Shimla in exercise of powers vested in me under Section 145(1)(c) of)(c) of the Himachal Pradesh Panchayati Raj Raj Act, 1994 hereby suspend Sh. Dev Raj from his post of Pradhan, Gram Panchayat Karasa on the charge of gross negligence in the discharge of duties with immediate effect. Besides above, it is also ordered that if cash/record/store/stock or any other belonging including

stamp of Pradhan Gram Panchayat Karasa is lying with ordered that if cash/record/store/stock or any other belonging Dev Raj the same be handed over to the Secretary Gram Panchavat Karasa immediately."

7. A perusal of this order demonstrates that the reason as to why the petitioner was placed under suspension was that a complaint was received against irregularities in development works of MGNREGA and 15th FC executed by the petitioner which was inquired by the Block Development Officer who submitted a 135 pages report. A Show Cause Notice was issued to the petitioner who submitted his reply on 04.09.2024. The reply of the Pradhan was considered. After perusal of the Preliminary Inquiry Report, the Authority arrived at the conclusion that the Pradhan had failed to produce any concrete documentary evidence in support of his defence on the charges of irregular payment, fake bills and diversion of works etc.

8. Now, in the order there is no reference to the response/ reply filed by the petitioner to the Show Cause Notice. There is no whisper of the defence taken by him. There is no reasoning given by the Authority as to why the defence was not found tenable and in a superfluous manner the order of suspension has been passed.

9. The Hon'ble Coordinate Bench of this Court in CWP No.2205 of 2015, titled Jagat Singh Versus State of H.P. & Ors.,

decided on 21.07.2015, in a case where a similar issue was involved has been pleased to hold as under:-

> "*6. Now reverting to the facts of this case, it would be seen that the petitioner had been served with a show cause notice spelling out six separate and distinct charges which were duly replied to in detail by the petitioner by elaborating and offering explanation to each of the charges independently. However, in the order of suspension save and except for reproducing the charge and thereafter making reference to the preliminary inquiry, it has been held that the reply was not satisfactory.*
>
> *7. A further perusal of the impugned order would reveal that the same is non-speaking in the sense that it does not at all deal with the contentions raised by the petitioner. The self contained reply submitted by the petitioner has virtually not been considered and, therefore, the impugned order can definitely be held to have been passed as a result of non-application of mind.*
>
> *8. On the basis of the aforesaid observations, it can safely be concluded that the show cause notice in the instant case has been issued only to show that principles of natural justice were complied with, but as a matter of fact, that proved to be a farce and an empty formality, because the reply filed by the petitioner was neither considered nor appreciated. There is no discussion, even brief, to reflect consideration of the cause shown.*
>
> *9. The necessity of assigning reason has been repeatedly emphasized by the Hon'ble Supreme Court and reference in this regard can conveniently be made to the judgment*

of the Hon'ble Supreme Court in Kranti Associates Private Limited and another vs. Masood Ahmed Khan and others (2010) 9 SCC 496 wherein it was held as under:

> *"47.(a). In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.*
>
> *(b). A quasi-judicial authority must record reasons in support of its conclusions.*
>
> *(c).. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.*
>
> *(d). Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*
>
> *(e). Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.*
>
> *(f). Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.*
>
> *(g). Reasons facilitate the process of judicial review by superior Courts.*
>
> *(h). The ongoing judicial trend in all countries*

committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

(i). Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j). Insistence on reason is a requirement for both judicial accountability and transparency.

(k). If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l). Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or `rubber-stamp reasons' is not to be equated with a valid decision making process.

(m). It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader

scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

(n). Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405 (CA), wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

(o). In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process".

10. Judged in the light of the aforesaid discussion, the impugned order cannot be permitted to stand. The decision making process and the decision is totally vitiated and cannot withstand judicial scrutiny. It is settled law that reasons are heartbeat of conclusion. Therefore, in absence of reasons, even the conclusion cannot be permitted to stand.

11. Resultantly, the writ petition is allowed and the impugned order is set-aside. However, liberty is reserved to the respondents to pass an appropriate order after

dealing with the reply of the petitioner in accordance with law. Pending application, if any, stands disposed of.

10. The findings of the Hon'ble Coordinate Bench are applicable to the facts of the present case and as in the present case too, the Authority concerned has failed to assign reasons by referring to the stand of the petitioner taken in the reply, it leads this Court to the conclusion that principles of natural justice were just complied with as a matter of empty formality. The reply filed by the petitioner was neither considered nor appreciated as it does not find any mention in the impugned order and there is no discussion to reflect consideration of the cause shown by the petitioner in the impugned order. Accordingly, this writ petition is allowed. Impugned order dated 19.10.2024 (Annexure P-4) is set aside. Liberty is reserved to the respondents to pass an appropriate order in accordance with law by taking into consideration the reply filed by the petitioner.

11. The petition stands disposed of. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

October 29, 2025
(Rishi)