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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10097-2025 (O/M)

Date of decision : 14.05.2025

Jogender Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Vijay Kumar Sheoran, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG Haryana.

Mr. Bhupinder Ghanghas, Advocate
for respondent No. 5.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Jogender Singh) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 10.01.2025 (Annexure P-14), passed by Deputy Commissioner, Charkhi Dadri, Tehsil and District Charkhi Dadri (in short 'Deputy Commissioner'), whereby the petitioner has been removed from the post of Sarpanch of Gram Panchayat Sarangpur, Tehsil and District Charkhi Dadri.

1.1 A further prayer has been made for setting aside the order dated 10.03.2025 (Annexure P-15), passed by Commissioner, Rohtak Division, Rohtak (in short 'Divisional Commissioner'), whereby an appeal

filed by the petitioner against order dated 10.01.2025 (Annexure P-14), has been dismissed.

2. Briefly, the petitioner was elected as a Sarpanch of Gram Panchayat Sarangpur, Tehsil and District Charkhi Dadri, in the panchayat elections held in the State of Haryana in the year 2022.

2.1 It appears that on an application being submitted by Jugti Ram, resident of village Sarangpur, Tehsil and District Charkhi Dadri, demarcation was carried out on 03.01.2021 (Annexure P-1), whereby petitioner (Jogender Singh) alongwith some other persons were shown in illegal encroachment over the common passage of the village.

2.2 On the basis of aforesaid demarcation report, respondent No. 5 (Ashok Kumar son of Jugti Ram) filed an eviction petition under Section 7 of Punjab Village Land (Regulations) Act, 1961 (in short '1961 Act') against the petitioner, which came to be allowed, vide order dated 22.10.2021 (Annexure P-2) by the Assistant Collector 1st Grade-cum-District Development and Panchayat Officer, Charkhi Dadri (in short 'DDPO').

2.3 The said order dated 22.10.2021 (Annexure P-2) came to be challenged by the petitioner and others by filing an appeal before learned Deputy Commissioner concerned, however, same was dismissed, vide order dated 03.08.2022 (Annexure P-3).

2.4 Still aggrieved, the petitioner alongwith others preferred a revision petition before learned Divisional Commissioner, which was also dismissed, vide order dated 25.04.2023 (Annexure P-4).

2.5 It transpires that all the aforesaid orders (Annexure P-2 to Annexure P-4) came to be challenged by the petitioner before this Court

by way of filing a writ petition (CWP-14283-2023), which came to be disposed of, vide order dated 12.12.2023, by observing as under :-

“4. In view of the above observations and directions, the instant writ petition is disposed off, and Assistant Collector concerned is directed to make a valid speaking decision on the remanded lis but, thus within four months from today, but after hearing all affected persons to the lis.”

2.6 It appears that upon remand of the case by this Court, another demarcation was carried out, wherein demarcation report dated 06.06.2024 (Annexure P-13) was prepared, wherein instead of the petitioner, his brother (Ajay son of Ratan Singh) was shown to be in unauthorized possession.

2.7 On the other hand, another complaint was submitted by respondent No. 5 (Ashok Kumar) against the petitioner before Haryana State Election Commission, which was forwarded to the Deputy Commissioner, Charkhi Dadri. In the said complaint, it was alleged that the petitioner (Jogender Singh) had given false statement/affidavit at the time of contesting election to the post of Sarpanch to the effect that neither he nor any of his family member was in illegal possession of panchayati/shamlat/Government land/building, whereas on the date of filing of nomination papers by the petitioner, there was not only a demarcation report dated 03.01.2021 (Annexure P-1), but there were two orders i.e. 22.10.2021 (Annexure P-2), passed by Assistant Collector concerned and other order dated 03.08.2022 (Annexure P-3), passed by Deputy Commissioner, Charkhi Dadri, directing eviction of the petitioner and, therefore, the petitioner was ineligible at the time of election.

2.8 It transpires that upon receipt of the complaint from Haryana State Election Commission, an inquiry was marked to Sub Divisional Officer (Civil), Charkhi Dadri (in short 'SDO'), who submitted his investigation report observing that the petitioner was guilty of violating the rules by contesting the elections despite being an illegal occupant of phirni (village circular road) of gram panchayat.

2.9 Apparently, after receipt of investigation report, a show cause notice was issued to the petitioner as to why necessary action under Section 51(3)(b) of Haryana Panchayati Raj Act, 1994 (in short '1994 Act') be not taken against him.

2.10 It appears that simultaneously, respondent No. 5 (Ashok Kumar) preferred a writ petition (CWP-15317-2023) before this Court, which came to be disposed of on 31.07.2023, directing the Deputy Commissioner, Charkhi Dadri to take action as per law regarding show cause notice dated 21.07.2023, issued to the petitioner (Jogender Singh). Thereafter, another notice was sent to the petitioner affording him personal hearing.

2.11 It also appears that the petitioner did not respond to the aforesaid show cause notice within the stipulated time.

2.12 Evidently, petitioner appeared before the Deputy Commissioner, Charkhi Dadri on 13.11.2024 for personal hearing, wherein he made a statement that he has not illegally occupied the gram panchayat common passage, but the same was in possession of his brother (Ajay), although in the affidavit dated 26.10.2022, submitted by the petitioner alongwith his nomination papers, he had clearly declared that neither he nor any member of his family have illegally occupied

panchayati/shamlat/Government land/building and also that no case is pending against him in any Court. Petitioner (Jogender Singh) is also stated to have submitted his written reply before the Deputy Commissioner, Charkhi Dadri.

2.13 Upon considering the matter in its totality, the Deputy Commissioner, Charkhi Dadri, vide order dated 10.01.2025 (Annexure P-14), disqualified the petitioner under Section 175 (1) (n) of 1994 Act and accordingly, directed his removal from the post of Sarpanch, by observing as under :-

“ During the personal hearing, in order to confirm the fact raised by Jogender Singh son of Shri Ratan Singh that the land in question is not in his possession but in the possession of Ajay son of Shri Ratan Singh, the office assistant was directed to produce on the file a copy of the reply filed by Jogender Singh son of Shri Ratan Singh in the court of Assistant Collector First Class-cum-District Development and Panchayat Officer, Charkhi Dadri. After examining the joint reply filed by defendants No. 1 to 8 in the court of Assistant Collector First Class-cum-District Development and Panchayat Officer, Charkhi Dadri, it was found that even in the said reply it was not mentioned anywhere that Ajay son of Shri Ratan Singh was in possession of the disputed land instead of defendant No. 4, Jogender son of Shri Ratan Singh. In the appeal filed in the court of Collector, Charkhi Dadri and the revision petition filed in the court of Commissioner, Rohtak Division, Rohtak against the order dated 22.10.2021 passed by Assistant Collector First Class-cum-District Development and Panchayat Officer, Charkhi Dadri, Jogender son of Shri Ratan Singh has been shown at serial number no. 4 in the list of appellants/revisionists and in the appeal filed in the

court of Collector, Charkhi Dadri and the revision petition filed in the court of Commissioner, Rohtak Division has also been signed by Jogender son of Shri Ratan Singh, which also confirms the fact that before filing the nomination for the post of Sarpanch, the order dated 22.10.2021 passed by Assistant Collector First Class-cum-District Development and Panchayat Officer, Charkhi Dadri and the order dated 03.08.2022 passed by Collector, Charkhi Dadri were well known to Jogender Singh son of Shri Ratan Singh and the revision petition filed against the said orders, which was filed before filing the nomination for the election of the post of Sarpanch, was also signed by Jogender Singh son of Shri Ratan Singh as revisionist.

After examining the documents available on the file, the inquiry report dated 12.07.2023 conducted by the Sub-Divisional Officer (Civil), Charkhi Dadri, the order dated 22.10.2021 passed by the Assistant Collector First Class-cum-District Development and Panchayat Officer, Charkhi Dadri, the order dated 03.08.2022 passed by the Appellate Court Collector, Charkhi Dadri, the revision petition dated 21.10.2022 filed in the court of Commissioner, Rohtak Division, Rohtak and the evidence and questions and answers attached with the written reply/statement filed by Jogender son of Shri Ratan Singh, it is proved that in point no. 3 and 4 of the affidavit filed by Jogender Singh son of Ratan Singh along with the nomination paper filed for the post of Sarpanch, it has been cited that I and any member of my family have not illegally occupied the Panchayati/Shamlat/Government land/building and no case is pending against me in any court. Whereas Jogender Singh son of Ratan Singh was found guilty of being an illegal occupant of Firni/Common passage of Gram Panchayat on the basis of orders dated 22.10.2021 and 03.08.2022 passed by the Court of Assistant Collector

First Class-cum-District Development and Panchayat Officer, Charkhi Dadri and Appellate Court Collector, Charkhi Dadri before filing nomination for the election of Sarpanch. Revision petition dated 21.10.2022 filed by Jogender Singh and others in the Court of Commissioner, Rohtak Division, Rohtak against the said orders was also filed before filing nomination for the election of Sarpanch by Jogender Singh son of Shri Ratan Singh.

Therefore, I, Munish Sharma IAS, Deputy Commissioner, Charkhi Dadri, having found Jogender Singh son of Shri Ratan Singh, presently Sarpanch of Gram Panchayat Sarangpur guilty of the disqualification mentioned in Section 175 (n) of Haryana Panchayati Raj Act, using the powers vested in Section 51 (3) (b) of Haryana Panchayati Raj Act, in the public interest, remove him from the post of Sarpanch of Gram Panchayat Sarangpur with immediate effect and as per the provisions contained in Section 51 (6) of the same Act, order Jogender Singh son of Shri Ratan Singh, presently Sarpanch of Gram Panchayat Sarangpur, to hand over the movable and immovable property of Gram Panchayat Sarangpur to the Panch of majority with immediate effect. Along with this, using the powers vested in Section 51 (4) of Haryana Panchayati Raj Act, 1994, I also declare Jogender Singh son of Shri Ratan Singh, presently Sarpanch of Gram Panchayat Sarangpur, ineligible to contest the elections of Gram Panchayat for the next 5 years.

These orders will come into effect with immediate effect.”

2.14 Feeling aggrieved against the concerned Deputy Commissioner's order, the petitioner preferred an appeal before Divisional Commissioner, which has also been dismissed, vide impugned order dated 10.03.2025 (Annexure P-15), the relevant extract of which reads as under :-

“ I first of all did an analytical examination of the points given by the appellant in the appeal and the order passed by the Deputy Commissioner, Charkhi Dadri. Apart from this, after perusing the records brought on the file, I have come to the conclusion that the appellant is an accused of illegal encroachment of Panchayat land, who was earlier evicted from the disputed land by Assistant Collector First Class-cum-District Development and Panchayat Officer, Charkhi Dadri vide order dated 22.10.2021 passed on the basis of demarcation report dated 03.01.2021, which was challenged by the appellant up to the Hon'ble High Court, wherein on the basis of the Hon'ble High Court order dated 12.12.2023 passed in CWP No. 14283/2023, demarcation was again done on 06.06.2024 to investigate the illegal encroachment of the appellant. On observation of which it was found that the illegal encroachment which was earlier shown in the name of the appellant is now shown in the name of his brother, whereas the appellant had never claimed in the first eviction case that the alleged illegal encroachment belongs to his brother. This proves that through the common people present at the time of latest demarcation, the Sarpanch has deliberately tried to show his illegal encroachment in the name of his brother. This action raises doubts on the honesty and morality of the Sarpanch. The post of Sarpanch plays an important role in the administrative and social system of the Gram Panchayat and the honesty and morality of the person is very important to remain on this post. Therefore, due to illegal encroachment of the appellant on the Panchayat road, he has been rightly removed from the post of Sarpanch.

Accordingly, the present appeal is rejected as it is found to be weak, illogical and baseless and the order of the Deputy Commissioner, Charkhi Dadri dated 10.01.2025 is kept intact as it is found to be strong, logical and baseless.

After compliance, the file should be consigned to the records.”

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition before this Court for the relief (s), as noticed hereinabove.

4. Heard.

5. Here, it would be apposite to refer to Section 51 (3) of 1994 Act, which deals with removal of a Sarpanch from his office and also Section 175 (1) (n) of 1994 Act, which is germane for the decision of this case, the provisions of which read as under :-

“51. Suspension and removal of a Sarpanch, [-] or Panch.- (1) The Director or the Deputy Commissioner concerned may, suspend any Sarpanch, [-] or Panch, as the case may be,-

(a) xxxxx xxxxx xxxxx

(b) xxxxx xxxxx xxxxx

(2) xxxxx xxxxx xxxxx

(3) The Director or the Deputy Commissioner concerned may, after such enquiry as he may deem fit and after giving an opportunity of being heard to a Sarpanch or an [-] a Panch, as the case may be, ask him to show cause against the action proposed to be taken against him, and by order remove him from his office -

(a) xxxxx xxxxx xxxxx

(b) *if he was disqualified to be a member of the Gram Panchayat at the time of his election;*

(c) *if he incurs any of the disqualifications mentioned in Section 175 after his election as member of the Gram Panchayat;*

(d) xxxxx xxxxx xxxxx

(e) xxxxx xxxxx xxxxx

(4) A person who has been removed under sub-section (3) may be disqualified for re-election for such period as may be mentioned in the order but not exceeding the period of six years.

(5) Any person aggrieved by an order passed under sub-sections (1), (3) and (4), may within a period of thirty days from the communication of the order, prefer an appeal to the Government.

[(6) Any Sarpanch or Panch, as the case may be, removed under sub-section (3), shall hand over the records, money or any other property of the Gram Panchayat in his possession or under his control-

(i) if he is Sarpanch to a Panch commanding majority in the Gram Panchayat; and

(ii) if he is a Panch to Sarpanch]

175. Disqualifications.- (1) No person shall be a Sarpanch, [-] or a Panch of a Gram Panchayat or a member of a Panchayat Samiti or Zila Parishad or continue as such who—

(a) has, whether before or after the commencement of this Act, been convicted-

xxxxx xxxxx xxxxx

(b) to (m) xxxxx xxxxx xxxxx

(n) is or has been during the period of one year preceding the date of election, in unauthorised possession of land or other immovable property belonging to the Gram Panchayat, Panchayat Samiti or Zila Parishad.”

5.1 It is required to be noticed here that during the course of hearing of this case, learned State counsel has handed over a typed copy of an order dated 22.07.2024, passed by Assistant Collector 1st Grade-cum-District Development and Panchayat Officer, Charkhi Dadri (in Court today itself, which is taken on record subject to all just exceptions) to submit that even after the matter was remanded, vide order

dated 12.12.2023, passed by a Division Bench by this Court in CWP-14283-2023, the petitioner has again been ordered to be evicted, the relevant extract of which reads as under :-

“ Therefore, I Baljit Singh Chahal, Assistant Collector First Class-cum-District Development and Panchayat Officer, Charkhi Dadri, after analyzing the record available on the file and after hearing both the parties properly, exercising the powers conferred under Section 7 (1) of the Punjab Village Common Land Act, declared respondents No. 1 to 8 illegal and unlawful encroachers on Gram Panchayat's common street.”

5.2 Below the said order, there is also a note whereby a copy of the eviction order has been forwarded to the Deputy Commissioner, Charkhi Dadri with a recommendation to take further necessary action against petitioner (Jogender Singh), who was concededly respondent No. 4 in the eviction petition, the relevant extract of which reads as under :-

“ A copy of this order is forwarded to the Deputy Commissioner, Charkhi Dadri with the recommendation to take further necessary action against respondent No. 4, Jogender Singh son of Ratan Singh, Sarpanch, Gram Panchayat Sarangpur, as per the provisions of the Haryana Panchayati Raj Act, 1994.”

6. Learned counsel for petitioner has not disputed the passing of aforesaid order against the petitioner.

7. In this case, apparently, an eviction order dated 22.10.2021 (Annexure P-2) was passed against the petitioner and even an appeal filed by the petitioner against the aforesaid eviction order was dismissed by Deputy Commissioner, Charkhi Dadri, vide order dated 03.08.2022

(Annexure P-3) and it is not disputed before this Court that at the time of filing of nomination papers by the petitioner for contesting election of Sarpanch, there were two eviction orders (Annexure P-2 and Annexure P-3) existing against the petitioner and it is also not disputed that while submitting nomination papers, the petitioner had also submitted an affidavit/undertaking that neither he nor any member of his family had illegally occupied panchayati/shamlat/Government land/building and that no case was pending against him in any Court

7.1 In the proceedings initiated against the petitioner under Section 51 of 1994 Act, the petitioner had tried to take a stand that the unauthorized possession was not of the petitioner, but of his brother (Ajay). The aforesaid stand of the petitioner was duly considered by the Deputy Commissioner, Charkhi Dadri and upon examining the reply filed on behalf of petitioner (Jogender Singh) in the eviction proceedings and also in the appeal preferred by the petitioner, it was found that no such plea was taken on behalf of the petitioner that he was not in possession of panchayati/shamlat/Government land/building and rather his brother (Ajay) was in possession. Accordingly, the aforesaid stand was not accepted by Deputy Commissioner, Charkhi Dadri and rightly so.

8. Since the petitioner had attracted disqualification in terms of Section 175 (1) (n) of 1994 Act, which provides that no person shall be a Sarpanch or a Panch of Gram Panchayat or a Member of Panchayat Samiti or Zila Parishad or continue as such, who is or has been during the period of one year preceding the date of election, in unauthorized possession of land or other immovable property belonging to Panchayat Samiti or Zila Parishad, accordingly, no fault can be found with the

impugned order dated 10.01.2025 (Annexure P-14), passed by Deputy Commissioner, Charkhi Dadri, vide which the petitioner was ordered to be removed from the post of Sarpanch. Even the appeal preferred by the petitioner against his removal order has been rightly dismissed by appellate authority.

9. Considering the totality of circumstances, I find no merit in this writ petition and same is accordingly dismissed.

10. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

14.05.2025
sjks

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