

2025.PHHC-034849-DB 

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

LPA-1684-2024 (O&M)

Reserved on: 07.03.2025

Pronounced on: 12.03.2025

RAJENDER PRASAD

.....Appellant

Versus

STATE OF HARYANA & ORS

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present:- Mr. Sunil Sihag, Advocate for the appellant.

Mr. Hitesh Pandit, Addl.A.G., Haryana.

Mr. J.P. Sharma, Advocate for respondent No.5.

SUDHIR SINGH, J.

Challenge in the instant intra Court appeal is to the order dated 20.05.2024, passed by the learned Single Judge, whereby the writ petition filed by the appellant was dismissed.

2. Before the learned Single Judge, the appellant had sought quashing of the orders dated 09.08.2023 and 08.12.2023 passed by respondents No.1 to 3, whereby he was initially removed/suspended from the Post of Sarpanch/Gram Panchayat Bhungarka, Tehsil Nangal Chaudhary (Mahendergarh) and later on his representation for reinstatement was dismissed. Challenge was also laid to the order dated 21.03.2024, whereby the appeal filed by the appellant was dismissed and the order dated 13.03.2024, whereby respondent No.4 had been appointed as an Administrator of said Gram Panchayat.

3. The facts in brief are that in the Gram Panchayat elections held in October, 2022, the appellant was elected as Sarpanch of Village Bhungarka, District Mahendergarh. However, after his election, a criminal case bearing FIR No.199, dated 20.07.2023 under Sections 148, 149, 307, 323 IPC and Section 25 of Arms Act, 1959 was registered against him. The appellant was sent to the judicial custody for 14 days. The Deputy Commissioner, Mahendergarh suspended the appellant from the Post of Sarpanch vide order dated 09.08.2023. The appellant had unsuccessfully filed an appeal against the said order. Pursuant to the dismissal of his appeal vide order dated 21.03.2024, the Deputy Commissioner appointed the Block Development & Panchayat Officer Nangal Chaudhry as the Administrator of the aforesaid village in terms of Section 49(1)(2) of the Act. The appellant had also unsuccessfully filed a representation for his reinstatement.

4. The learned Single Judge, after noticing the contentions of the learned counsel for the appellant in detail, including the plea that he had falsely been implicated in the aforesaid FIR and reliance of the learned counsel for the appellant upon the judgment of the Supreme Court in **Sardar Meena vs. State of Rajasthan and others, 2023(2) SCC (L&S) 621**, and further noticing the contention of the learned State counsel to the effect that suspension of the appellant was in terms of Section 51(1) of the Act, has dismissed the writ petition, as noticed above.

5. Learned counsel for the appellant has vehemently argued that the perusal of the impugned order dated 09.08.2023 (Annexure P-3 with the writ petition) passed by the Deputy Commissioner, Mahendergarh would show that the appellant has been suspended for an indefinite period. It is further submitted that the suspension of the appellant cannot be for an indefinite period and the same is totally against the law laid down by the Hon'ble Supreme Court in Sardar Meena's case (supra). It is further argued that the appellant had specifically pleaded before the learned Single Judge, that he had falsely been implicated in the aforesaid FIR due to the political rivalry in the village. It is further argued that it is a settled principle of law that an accused is to be treated innocent unless he is found guilty by the Court of competent jurisdiction. Still further, learned counsel for the appellant has argued that before passing the impugned order no inquiry had been conducted as contemplated in Section 51(3) of the Act. It is, thus, argued that as the aforesaid aspects of the matter have totally been ignored by the learned Single Judge, the impugned order is liable to be set aside.

6. On the other hand, the learned State counsel and the counsel for respondent No.5, while defending the order passed by the learned Single Judge, have submitted that the suspension of the appellant is in terms of the provisions of Section 51 of the Act. It is further submitted that pursuant to the directions issued by this Court on 06.11.2024, the Deputy Commissioner, Mahendergarh at Narnaul, has passed the order dated 07.02.2025, regarding the regular inquiry

into the matter and, thus, no indulgence is required by this Court. Accordingly, a prayer has been made for dismissal of the appeal.

7. We have heard learned counsel for the appellant and have also gone through the filing of the case, including the impugned order passed by the learned Single Judge.

8. It may be noticed that a Co-ordinate Bench of this Court while issuing notice of motion vide order dated 06.11.2024, had observed as under:-

“Counsel for the appellant, inter alia, contends that the order of suspension was passed on 09.08.2023 (Annexure P-3) and as per Proviso to Section 51(2) of the Haryana Panchayati Raj Act, 1994, suspension period should not exceed for a period of one year from the date of handing over the charge, except in criminal cases involving moral turpitude. It is further pointed out from sub-clause (3) that there has to be an enquiry thereafter, for the purposes of removal. It is still further pointed out that the appellant had not incurred any disqualification under Section 175, which further provides that after the charge is framed in a criminal case punishable for not less than 10 years, would also bring it within the ambit of disqualification.

It is submitted that though the writ petition was filed prior to the expiry of period of one year, the plea taken in para no.17 was that no regular enquiry had been initiated. Reference is made to the FIR No.199 dated 20.07.2023 (Annexure P-1) to show that the gun-shot injury on the injured person is on the left ankle joint and on the sole of the left feet and it is submitted that the cross-version (Annexure P-2) would go on to show that the pistol was snatched from the appellant's person and he was also beaten and therefore, moot question would arise, as such regarding whether any moral turpitude issue arises. It is submitted that the incident had been recorded in CCTV which showed that the appellant was actually acting in self-

defence. It is pointed out that the appellant is an Ex-NSG Commando.

Notice of motion in the main appeal as well as the application for condonation of delay in filing the appeal, for 30.01.2025.

Mr. Mago accepts notice on behalf of respondents No.1 to 4 and prays for time to find out as to whether the Deputy Commissioner has initiated any proceedings for regular enquiry. Keeping in view the above, the matter is liable to be re-examined in proper perspective, considering that a period of over one year has gone by since the handing over of the charge.

The present appellant shall file appropriate application before the Deputy Commissioner, Mohindergarh, respondent No.3, who shall pass a comprehensive speaking order, keeping in view the above observations made. Let the said speaking order be appended along with the status report to be filed, on the next date of hearing.

Service upon the private-respondent be effected upon for the date fixed.”

9. Pursuant to and in compliance with the aforesaid order, the learned State counsel has filed status report dated 19.02.2025 annexing therewith a copy of the order dated 07.02.2025 (Annexure R.1), passed by the Deputy Commissioner, Mahendergarh, at Narnaul, rejecting the representation dated 11.11.2024, moved by the appellant. The said status report is taken on record.

10. A perusal of the order dated 07.02.2025 passed by the Deputy Commissioner, Mahendergarh, would show that while rejecting the representation submitted by the appellant, the Sub-Divisional Officer (Civil), Nangal Chaudhry, has been appointed as an Inquiry Officer to conduct a regular inquiry into the matter. The relevant extracts from the said order would read as under:-

“Therefore, I, Dr. Vivek Bharti, IAS, Deputy Commissioner Mahendergarh at Narnaul, in view of careful perusal of records available on the file, above mentioned facts, report dated 27.01.2025 submitted by Block Development and Panchayat Officer, Nangal Choudhary and considering the seriousness of the said criminal case, hereby reject the application/representation dated 11.11.2024 of appellant i.e. Sh. Rajender Parshad (Suspended Sarpanch).

Moreover, the Sub Divisional Officer (Civil), Nangal Choudhary is hereby appointed as regular inquiry officer to conduct an inquiry on the alleged averments made in the application and reply of the appellant i.e. Sh. Rajender Parshad (Suspended Sarpanch). The Sub Divisional Officer (Civil), Nangal Choudhary is hereby directed to conduct regular inquiry into the alleged statements/averments made in the application and reply of the appellant within three months from the date of receipt of this order.”

11. The appellant has incurred suspension in terms of Section 51(2) of the Act and proviso to the said sub-Section clearly shows that such suspension shall not exceed one year, except in criminal cases. As in the instant case, the appellant was suspended pursuant to registration of an FIR against him, the said proviso would come into play.

12. The short question that requires to be gone into at this stage is whether such suspension can be allowed to remain in operation for an indefinite period.

13. The Hon'ble Supreme Court in Sardar Meena's case (supra), has held that the suspension cannot continue in *ad infinitum*, more so when it has not to await any criminal proceedings. The aforesaid case arose out of the *para materia* provisions contained in

Rajasthan Panchayati Raj Act, 1994. While considering whether or not the suspension of the Sarpanch can be allowed to continue for an indefinite period, it was held that the respondent-authorities therein were to establish the charges against the appellant therein, *de hors* the registration of an FIR. It was held as under:-

“11. We, at the cost of repetition, emphasize that the own stand of the respondent is that the action is based on the enquiry held by the concerned officer in pursuance to the FIR. The sequiter would be that the proceedings in the criminal case would not weigh at this stage in determining the conduct of the appellant but would be dependent on the material presented before the competent authority against the appellant. That being the position, the suspension can also not continue in an ad infinitum manner, more so, when it has not to await any criminal proceedings.

12. We thus are of the view that it is necessary to bring an end to the proceedings initiated under Section 38(1) of the said Act at the earliest and it is stated that the pleadings are complete. We are thus, of the view that the respondent should conclude the proceedings on or before 30th April, 2022 and it will be the bounden duty of the appellant to cooperate with those proceedings so as not to delay the same. The result would be that the suspension order would continue to be operational till 30th April, 2022 alone.

13. Needless to say that it will be for the respondent(s) to establish the charge against the appellant *de hors* the registration of the FIR on the principles of such proceedings and not on the principles of criminal proceedings of proof beyond reasonable doubts.”

12. As the Deputy Commissioner, Mahendergarh at Narnaul, vide the aforesaid order dated 07.02.2025 has already ordered a regular inquiry into the matter, we deem it appropriate to direct the authorities concerned to conclude the said inquiry proceedings

expeditiously, preferably within a period of three months from the receipt of the copy of this order. The order passed by the learned Single Judge, shall stand modified to that extent.

13. With the aforesaid direction, the present appeal stands disposed of.

14. Pending application(s), if any, shall stand disposed of.

[SUDHIR SINGH]
JUDGE

[SUKHVINDER KAUR]
JUDGE

12.03.2025
himanshu

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