

(2013) 08 P&amp;H CK 0728

**High Court Of Punjab And Haryana At Chandigarh****Case No:** CWP No. 14656 of 2013

Aas Mohd.

APPELLANT

Vs

State of Haryana and others

RESPONDENT

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**Date of Decision:** Aug. 7, 2013**Acts Referred:**

- Haryana Panchayati Raj Act, 1994 - Section 51(1), 51(5)

**Hon'ble Judges:** Rakesh Kumar Jain, J**Bench:** Single Bench**Advocate:** Ravinder Malik Ravi, for the Appellant;**Final Decision:** Dismissed

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**Judgement**

Rakesh Kumar Jain, J.

Petitioner has challenged the order dated 5.6.2013 passed by respondent No. 2 by which respondent No. 5 has been exonerated. The case set up by the petitioner is that an enquiry was conducted against respondent No. 5 for some alleged misconduct. Respondent No. 5 was put under suspension by the Deputy Commissioner, Mewat on 6.6.2011 but her appeal was accepted by the Financial Commissioner on 19.7.2011 observing that respondent No. 5 was not served with the show cause notice and was not afforded any opportunity to explain the position with regard to the allegations made against her while passing the impugned suspension order. Thus, while allowing the appeal, direction was issued to the Deputy Commissioner to hold regular enquiry into the allegations.

2. It is submitted by learned counsel for the petitioner that regular enquiry was conducted and report dated 22.10.2012 was submitted but the said report was not being considered by respondent No. 2 for the purpose of taking appropriate decision, therefore, the petitioner filed CWP No. 2143 of 2013 titled as Aas Mohd. Vs. State of Haryana and others, which was disposed of on 31.1.2013 directing respondent No. 2 to consider the enquiry report dated 22.10.2012 and take

appropriate decision, in accordance with law.

3. In terms of the order of this Court, respondent No. 2 considered the enquiry report and passed a detailed order and exonerated respondent No. 5 from the charges leveled against her, by making the following observations: -

On careful perusal of the record and after hearing the Sarpanch personally and as per the statement of District Social Welfare Officer and Sh. Baddan, Assistant in the office of Block Development and Panchayat Officer, Punhana, it has been found that no embezzlement of pension amount has been done by the Sarpanch, Gram Panchayat Khedla Punhana namely Smt. Rasidan. The Addl. Deputy Commissioner, Mewat Deputy Chief Executive officer, Zila Parishad, Mewat and Block Development and Panchayat Officer, Punhana have admitted in their report that no amount of pension has been embezzled and the balance pension amount has been deposited by the Sarpanch with Sh. Baddan, Assistant in the office of Block Development and Panchayat Officer, Punhana and in this regard, the employee himself has admitted in his statement and the District Social Welfare Officer has also admitted in his statement that the balance amount for the month of May and June 2010 has been again received by their office through the Block Office. Therefore, I hereby pass the order for initiation of disciplinary proceedings against Sh. Baddan, Assistant in the office of Block Development & Panchayat Officer, Punhana by filing the complaint in view of the order passed by the Hon"ble Punjab and Haryana High Court in CWP No. 2143 of 2013 and by exonerating the Sarpanch for the charges leveled against her while admitting Sh. Badan, Assistant in the office of Block Development & Panchayat Officer, Punhana and not finding the Sarpanch as an accused.

4. Learned counsel for the petitioner has submitted that respondent No. 2 has committed an error in exonerating respondent No. 5 though she was indicted in the enquiry report. After hearing learned counsel for the petitioner and perusing the record, I am of the considered opinion that there is no error in the order of respondent No. 2, who has passed a detailed order after taking into consideration various factors and had found that there is no allegation proved against respondent No. 5 of embezzlement. Even otherwise, the order passed by respondent No. 2 u/s 51(1) of the Haryana Panchayati Raj Act, 1994 [for short "the Act"] is appealable u/s 51(5) of the Act. On this ground as well, the petition is not maintainable. Hence, the same is hereby dismissed.