

## Ganga Bishan Vs State of Haryana and Others

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** July 12, 2013

**Hon'ble Judges:** Rakesh Kumar Jain, J

**Bench:** Single Bench

**Advocate:** J.P. Dhull, for the Appellant;

**Final Decision:** Dismissed

### Judgement

Rakesh Kumar Jain, J.

The petitioner has challenged order dated 07.11.2012 passed by respondent No. 2 by which he has been put

under suspension and order dated 12.02.2013 by which his appeal has been dismissed by respondent No. 1. In short, the petitioner is a Panch in

the Gram Panchayat of village Ramgarh Pandva, Block Kalayat, District Kaithal. Respondent No. 3 filed an application to the respondent No. 2

for removal of the petitioner from the post of Panch alleging that a criminal case has been registered against the petitioner vide FIR No. 107 dated

23.07.2011, under Sections 420, 467, 468, 471, 120B and 506 IPC at Police Station Kalayat, on the allegation of getting a sale deed in his

favour by producing a fake person as a seller who is alleged to have died earlier. Respondent No. 2 got a preliminary inquiry conducted in the

allegations through the BDPO, Kalayat. He testified in his report about the registration of the aforesaid criminal case which is pending consideration

in the Court of Additional Chief Judicial Magistrate, Kaithal. The petitioner was arrested on 26.08.2011 and remained in-judicial custody before

his release on bail. Thus, exercising the powers u/s 51(1) of the Haryana Panchayati Raj Act, 1994 (hereinafter referred to as the "Act"), a show

cause notice was given to the petitioner as to why regular enquiry may not be conducted against him. The petitioner submitted his reply to the show

cause notice. Thereafter, vide his order dated 07.11.2012, respondent No. 2 placed the petitioner under suspension in terms of his powers

conferred u/s 51(1) of the Act and ordered his removal u/s 51(1)(a) of the Act. The petitioner filed statutory appeal u/s 51(5) of the Act which has

been dismissed by respondent No. 1 with the following order:-

I have heard the counsels for the parties and perused the record available on the file. It is an admitted fact that a criminal case under sections 420,

467, 468, 41, 120B, 506 of Indian Penal Code is registered against the appellant regarding impersonation while getting a sale deed registered. The

appellant has been placed under suspension u/s 51(1)(a) of the act in view of the said criminal case. The appellant was afforded adequate

opportunity to explain his position before placing him under suspension by the Deputy Commissioner. Arguments relating to merits on the criminal

case are not relevant for disposal of this appeal. As per clause (a) of sub-section (1) of Section 51 of the Haryana Panchayati Raj Act, 1994,

under which the impugned order have been passed mere investigation or inquiry in respect of any criminal offence is enough to pass the impugned

order provided charge made or proceedings taken against appellant involves moral turpitude or defect of character or likelihood of embarrassment

of the appellant in the discharge of his duties as Sarpanch. The offence punishable under sections 420, 467, 468, 120B, 506 IPC undoubtedly

involves moral turpitude and the charge levelled against the appellant is of very serious nature. Thus, the impugned order is perfectly in consonance

with the provisions of section 51(1)(a) of the Haryana Panchayati Raj Act, 1994. Hence, finding no infirmity in the impugned order, the appeal is

dismissed.

2. Counsel for the petitioner has argued that the petitioner has been falsely implicated in the criminal case because of the village political rivalry and

also the respondent being in unauthorized possession of the Panchayat land which has been noticed by the petitioner as a Panch. In this regard, he

has relied upon the judgments of this Court in the cases of Raghbir Singh, Panch v. State of Punjab and others, 2013 (1) S.C.T. 527, Manjit Kaur

v. State of Punjab, 2009 (4) R.C.R. (Civil) 483 and Chand Vs. Special Secretary to Government of Punjab and Others,

3. I have heard counsel for the petitioner and perused the record with his able assistance.

4. Insofar as the Raghbir Singh's case (supra) is concerned, it has been held therein that merely on the registration of FIR, the elected

representative like Panch or Sarpanch cannot be placed under suspension and the Director has to opine that the charge made or proceeding taken

against Panch etc. is likely to embarrass him in discharge of his duties or offence is such, which involves moral turpitude or the offence is such

which shows defect of character. Since no such opinion was expressed by the Director in that case, therefore, the impugned order was set aside,

whereas in the present case, it has been categorically held by respondent No. 1 that the offence punishable under Sections 420, 467, 468, 120B,

506 IPC undoubtedly involves moral turpitude and the charge levelled against the petitioner is of very serious nature.

5. In Chand's case (supra), it has been held by this Court that before passing the order of suspension against the elected representative, strict

compliance of rule of natural justice is must. In this regard, it may be noticed that after the complaint was received, a show cause notice was given

to the petitioner and after obtaining his reply, order was passed by the respondent No. 2, therefore, the rule of natural justice has been complied

with. Insofar as Manjit Kaur's case (supra) is concerned, in that case, an against the petitioner are of very serious nature as he ha purchased the

land of a FIR u/s 420 IPC was registered against a Sarpanch. The suspension order was passed only on the ground of registration of a case but it

was held that the Director was required to see whether offending act of Sarpanch as reflected in FIR was likely to embarrass him in discharge of

his duties or involved moral turpitude or defect of character. It may be pointed out again that the allegations dead person by presenting an

imposter/fake person. In this regard, before passing the impugned order, it has been categorically held by the official respondents that the act and

conduct of the petitioner is likely to embarrass him in discharge of his duties and the alleged offences falls within the definition of moral turpitude.

Thus, finding no merit in the present writ petition, the same is hereby dismissed.