
(1969) 08 P&H CK 0004
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 325 of 1969

Madan Lal	Vs	APPELLANT
The State Of Haryana and others		RESPONDENT

Date of Decision : 20-08-1969

Acts Referred:

Punjab Municipal Act, 1911 — Section 16(2)

Citation : (1969) 08 P&H CK 0004

Hon'ble Judges : H.R. Sodhi, J

Bench : Single Bench

Advocate : Anand Sarup with Mr. R.S. Mittal, for the Appellant; Gokal Chand Mittal, for Advocate General(Haryana), Mr. H.L. Sarin with Mr. H.S.Awasthi, for the Respondent

Final Decision : Allowed

Judgement

H.R. Sodhi, J.

1.This writ petition is directed against the order of the State Government removing the Petitioner from his membership of the Municipal Committee, Uklana Mandi, District Hissar, (herinafter called the Committee) and further disqualifying him for a period of five years u/s 16(2) of the Punjab Municipal Act, 1911 (hereinafter called the Act) A copy of the impugned order has been filed as Annexure "F" with the writ petition. Facts which are necessary for the disposal of the petition may be stated hereunder.

2. General Elections to the Committee were held sometime in May, 1964, and nine persons, including the Petitioner, were elected as its members. There was one Ganga Jal also elected as a member and he is a Petitioner challenging a similar order in Civil Writ 321 of 1969. The Petitioner was elected Vice-President, and Ganga Jal was elected President The President was elected for a period of three years whereas the term of the Petitioner was one year only. He was again elected Vice-President in 1965 and also in 1966-For the year 1967, the Petitioner

was again elected Vice-President by toss since the two rival groups in the Committee were equally balanced. Ganga Jal, however, lost the toss and Shri Gauri Shanker Respondent was elected though, of course, by a toss. The term of office of the Petitioner as Vice-President was to expire in June, 1968, but no election to that office was held till 19th January, 1960. It is alleged by the Petitioner that the election was postponed deliberately by Shri Gauri Shanker Respondent belonging to the opposite group who would not under one excuse or another convene a meeting of the committee for holding a fresh election since he was anticipating the removal of the Petitioner and Ganga Jal from the membership of the Committee by the Minister for Local Government, Respondent No. 2.

3. The averment of the Petitioner further is that, at one time, he, Ganga Jal and four others, formed a dominant group in the Committee and the opposition group belonging to the Congress party consisted of three members only. Gauri Shanker, Respondent No. 3, is said to belong to the Congress party. Banarsi Dass one of the elected members had died, thus reducing the strength of the membership of the Committee to eight. The Petitioner was served with a show-cause notice dated 3rd September 1968 u/s 16(1) of the Act calling upon him to explain within twenty one days from the despatch of the notices to why he should not be removed from the membership of the Committee on the ground that he had managed to get a pacca Chabutra constructed in front of his house out of the municipal funds. This, in terms of the notice, constituted a flagrant abuse of position by the Petitioner as Vice-President/Member of the Committee within the meaning of Section 16(1)(e). A statement of allegations bearing the same date was also served on the Petitioner. The allegations are in the following terms:

Shri Madan Lal, while working as the Vice-President of the Municipal Committee, Uklana, got a pacca Chabutra built in front of his house out of municipal funds. Though the Chabutra does not fall within the boundary wall of the house but the house has an opening towards this side. This Chabutra has been provided to give a better look to the house and facilitate the entrance. It does not serve any public purpose at all since the lane is blind alley and cannot be used as a thoroughfare.

4. An explanation was furnished by the Petitioner to the State Government on 18th September, 1968, and a copy of the same has been filed as Annexure "D" with the writ petition. The Petitioner denied that any Chabutra in fact had been constructed as such. It was urged by him that only a drain between the back side of the walls of the houses of Amarti Devi and Hukam Chand on the one side and the house of Ram Sarup on the other, had been covered, in pursuance of a unanimous resolution of the Committee passed on 8th January, 1967. A copy of this resolution is Annexure "B" with the writ petition. The Petitioner in his explanation described the charge as baseless, levelled on account of party faction and submitted that Respondent No. 3, who is now the President of the Committee, was himself a party to the resolution. It was stated by him that what

is said to be a Chabutra was only a covering over the drain constructed at a cost of not more than Rs 20/- at the most, to avoid bad smell emitted on account of stagnation of water in the drain which adjoins the kitchen of Ram Sarup's house and also caused public nuisance to all passers-by through the main gate of Gol Mandi which gate was close to the drain. The Petitioner also stated in his explanation that if the expenditure were irregular there would have been an audit objection and that he could not sloop so low as to have Rs 20/-- of the Committee spent for the benefit of his wife Amarti Devi though admittedly her house abuts on that drain. A plan giving location of the Mandi gate and other houses including that of Amarti Devi and also showing drain on which Chabutra is said to have been constructed has been filed as Annexure "C" with the writ petition. The correctness of the plan has not been disputed in any of the returns. The Petitioner in his explanation to the State Government attributed personal animosity to Respondent No. 3, who, according to the Petitioner, was out to malign the latter and Ganga Jal, the ex-President because of groupism in the Committee and Ganga Jal having given up his long associations with the Congress party. It was stated by the Petitioner that the charge levelled against him was totally false and mala fide and that he as Vice-President or as member of the Committee had nothing personally to do with the resolution which was passed unanimously by all the six persons present in that meeting. This resolution was again confirmed by the Committee at its next meeting. The Petitioner has also filed with the writ petition a copy of the letter dated 16th, April, 1968, written by him and Ganga Jal in which certain allegations were made against Respondent No. 3. At this stage, it may be relevant to reproduce the resolution of the Committee passed on 8th January, 1967, in obedience to which the drain is said to have been covered.

5. A true translation of the resolution Annexure "B" reads as under:

Present Members:

1. Shri Ganga Jal,
2. Shri Madan Lal, Vice President;
3. Shri Munshi Ram, 4. Shri Gauri Shanker
5. Shri Brij Lal. 6. Shri Bhagwant Rai.

12. Suggestion of the President, Municipal Committee:-

That the drain which is situated in the middle of the house of L. Madan Lal and Shri Ram Sarup, should be covered. The lower part of the arch in the Gole Mandi door, has got dis-lodged and there is danger of its falling down. Therefore, the wall below it may be got constructed It is submitted in the meeting for sanction.

12. It is sanctioned unanimously. Estimates of the door of the old Mandi may be got prepared and the President, Municipal Committee, after getting the estimate prepared and the tender invited, should undertake these two kinds of works. The

Bara Hatta gate may be provided with doors. Attested. S/d-Secretary, Municipal Committee, Uklana Mandi.

6. The State Government after receipt of the explanation of the Petitioner issued notification dated 1st January, 1969, (Annexure "F") whereby the Petitioner was removed from membership of the Committee and disqualified. The operative part of the notification is in the following terms:

And whereas the explanation furnished by Shri Madan Lal to the show cause notice served on him u/s 16(1)(e) of the Punjab Municipal Act. 1911, has been considered and the State Government have come to the conclusion that he has flagrantly abused his position as a member of the said Municipal Committee;

Now, therefore, in exercise of the powers conferred on him under, S 16(1)(e) ibid, the Governor of Harvana is pleased to remove the said Shri Madan Lal from the membership of the Municipal Committee Uklana Mandi, and to further disqualify him for a period of five years u/s 16(2) ibid," Hence the present writ petition.

7. Mr. Anand Sarup, learned Counsel for the Petitioner, has raised the following points:

(1) That the charge as served upon the Petitioner calling upon him to show cause is highly vague and indefinite. The contention is that there is no compliance with the proviso to Section 16(1)(g) in as much as the charges for which removal of a member from the Committee is proposed, are vague. It may be useful to reproduce here the said proviso for facility of reference:

16(1) The State Government may by notification remove any member-

* * *

(g)

Provided that before the State Government notifies the removal of a member under this section, the reasons for his proposed removal shall be communicated to the member concerned, and he shall be given an opportunity of tendering an explanation in writing.

(2) That the impugned order as contained in the notification (Annexure "F") gives no reasons indicating how the explanation furnished by the Petitioner was not found by the State Government to be satisfactory thereby justifying his removal from membership of the Committee and also his future disqualification for a period of five years. The submission is that the Government exercising quasi-judicial functions in the matter of removal of the Petitioner was bound to act on an objective data with a judicial approach and that it should have given in the order the outline of the process of reasoning that led to the impugned order

(3) That the alleged act of managing a chabutra to be constructed does not constitute an abuse of his position by the Petitioner and much less a flagrant

abuse. The submission is that it will shake the conscience of my reasonable person to hold that the petitioner in the circumstances of the instant case can be said to have flagrantly abused his position and that the finding of the State Government to that effect is nothing but perverse arrived at for extraneous considerations.

(4) That the Minister, Respondent No. 2, acted mala fide in passing the impugned order as his object was to improve his party position in the Committee by removing the Petitioner and Ganga Jal.

8. Any affidavit in reply has been filed by the Secretary to Government, Haryana, Local Government Department, on behalf of the State, Respondent No. 1. Respondents Nos. 2 and 3 have also filed affidavits by way of returns to the writ petitions. In para 13 of the writ petition, the Petitioner states that it is lawful for the Committee in the discharge of its duties to cover all such drains and that the drain in question was covered through a unanimous resolution of the Committee. The State has taken up the position that the allegations of the Petitioner are wrong and that the Committee had resolved only to cover the drain and not to provide Chabutra. It is, however, asserted that the Petitioner while working as Vice-President of the Committee got a pacca Chabutra built out of the municipal funds with the object of giving a better look to the house of his wife Amarti Devi. It is denied by the State that any political considerations weighed with the Government while passing the impugned order. It is reiterated that the Petitioner flagrantly abused his position as a member of the Committee by getting a Chabutra constructed in front of his house out of the funds of the Committee. In answer to the allegation that no reasons have been given in the notification (Annexure "F"), it is pleaded by the Government that the decision was taken after examining the allegations against the Petitioner and the explanation furnished by him having been found unsatisfactory. According to this Respondent, it passed a speaking order which is self-explanatory. It may be stated at this stage that no order giving any reasons beyond what is to be found in the notification was appended with the return of the State Government nor any reference made there to. The Minister, Respondent No. 2 in his affidavit has also repeated the same averments substance of which is to the effect that the Petitioner got a Chabutra constructed at the expense of the Committee in front of his house to give a better look to the entrance. Any ulterior motive attributed to him is denied. It is stated by him that the personal allegations against him are false and baseless and that he even allowed a personal hearing to the Petitioner but the latter did not avail of that opportunity.

9. There is then the return filed by Respondent No. 3, who was a party to the resolution (Annexure "B") and is now President of the Committee. It is stated by him that the Petitioner was rightly removed from his membership of the Committee as he had flagrantly abused his position as its member obviously by having got the Chabutra constructed on the drain on the back of his house. The validity of the notification removing the Petitioner is defended by this

Respondent, who further states the Government took action after considering Petitioner's explanation which was found to be unsatisfactory. In para 12 of the writ petition, the Petitioner gave facts which led to the passing of the unanimous resolution (Annexure "B") by the Committee on 8th January, 1967. It is submitted therein that Respondent No. 3, who was then the leader of the opposition group, was also present at the meeting and concurred in the resolution. The plan (Annexure "C") showing the real situation of the drain, adjacent shops, and the houses has been referred to in this para, but the reply of Respondent No. 3. is highly evasive. He is content with stating that the Petitioner flagrantly abused his position as a member of the Committee but it is not explained by him as to why he concurred in the resolution nor does he specifically say if the situation of the houses, shops etc. as indicated by the Petitioner in Annexure "C" is correct or not.

10. Now that the allegations and counter-allegations of the parties have been stated, I may deal with the various contentions raised by the learned Counsel for the Petitioner. There is no doubt in my mind that the charge as communicated to the Petitioner is extremely vague, indefinite and carries no precise suggestion as to what is to be understood from the use of the expression "managed to get the chabutra constructed", It is not clear what the intention of the Government by using the expression "'managed to get the chabutra constructed" was. Was it meant to convey that the Petitioner used his influence with the members of the Committee and a unanimous resolution passed or was it intended to suggest that after the resolution had been passed, it was in the course of its execution that the Petitioner took advantage of his position as Vice-President/Member and exercised his influence with the officers of the Committee or contractor/contractors who built the covering over the drain ? The Petitioner filed a copy of his explanation as furnished to the Government wherein it is stated that the cost of the so called chabutra, which, according to him, is just a covering over the drain, could not be more than Rs. 20/-. Respondent No. 3 while supporting the removal of the Petitioner from membership of the Committee by the State Government does not care to take this Court in confidence by stating in his return as to what is the nature of the chabutra and how he considers the Petitioner to be responsible for managing the same to be constructed. He also does not state as to why he agreed to the resolution if it was not lawful to spend municipal funds on the construction of the alleged chabutra. The matter of construction of the chabutra had been made a subject matter of a separate charge against Ganga Jal as well who was then the President of the Committee. If the gravamen of the charge is that the Petitioner influenced the Committee or its President, it should have been so stated. As a matter of fact, the whole thing appears to have been kept vague. Section 16(1)(g) enjoins upon the State Government not to remove a member of the Municipal Committee unless the reasons for his proposed removal are communicated to him and he is given an opportunity to tender his explanation. The opportunity has indeed to be a real and substantial and not merely illusory. A person called upon to answer a charge

has a right to know what precisely the charge is and when the charge is vague there cannot be a real opportunity afforded within the meaning of the said section. It must, therefore, in the instant case, be held that there was no compliance with Section 16(1)(g) as no proper opportunity was given to the Petitioner.

11. As regards the contention that no reasons have been given in the impugned order, Mr. G.C. Mittal, appealing for the State, produced the executive file before me. There was a detailed order written by the Minister before the impugned notification was issued. A copy of this order does not seem to have been available with the Petitioner since none was filed with the writ petition. The State also, in spite of the fact that one of the grounds taken in the petition was that the impugned order did not give reason did not choose to file a copy of the said order with its return. It was only when in the course of arguments I looked into the file that I discovered the order of the Minister Respondent No. 2, dated 10th Junnary, 1969. The State Counsel than gave a copy of this order to the counsel for the Petitioner and a copy of that order marked "X" was also placed on the record. It seems that Respondent No. ? in passing the order directing removal of the Petitioner from membership found the explanation furnished by the latter to be unsatisfactory. He dealt with the cases of Ganga Jal and Madan Lal Petitioner collectively and passed a consolidated order. The charges against Ganga Jal were first dealt with and one of them was the same, namely, construction of a chabutra in from of the house of the Petitioner. The Respondent held that Ganga Jal got the chabutra constructed for the benefit of the Petitioner and, therefore, both were guilty of flagrantly, abusing their positions by misusing the municipal funds. He, in this connection, relied on the following three reports:

1. Enquiry report dated 18th July, 1968, made by the General Assistant to the Deputy Commissioner, Hissar.

2. Report dated 19th July, 1968, made by Deputy Commissioner, Hissar, on receipt of the aforesaid report of the General Assistant who looked into complaints and counter-complaints made by Ganga Jal ex-President and Gauri Shankar Respondent, against each other.

3. Report of the Assistant Secretary Local Government, dated 13th December, who made an on the spot enquiry into some complaints.

12. One of the matters enquired into in these three reports related to the disputed construction of a pacca terrace on the drain passing behind the house of Amarti Devi wife of the Petitioner. The Assistant Secretary found that the cemented terrace, which is now described as a chabutra, had been constructed on the municipal drain which passed under it and in his opinion, the drain could easily have been covered by a cheaper device rather than a cemented terrace which could benefit the Petitioner only. He considered this to be no misapplication of the municipal fundi though according to him it was an irregularity and a case of favouritism. The General Assistant reported to the

Deputy Commissioner that there was acute party faction in the Committee which stood divided into two groups having four members each and that each group was out to black-mail and malign the members of the other group. In the matter of charge relating to the construction of the chabutra (platform), the General Assistant held the view that the platform served no public purpose. He also thought that it did not fall within the boundary wall of the house of the Petitioner and was undoubtedly constructed on a public drain but did not serve any public purpose, and was, therefore, a clear misutilisation of the municipal funds. The Deputy Commissioner in his note of 19th July, 1968, concurred with the view of the General Assistant but asked the local Fund Accounts Branch to let him know the cost of construction of the platform. It is a common ground before me that no member has been surcharged for having caused any loss, waste or misapplication of the municipal funds as a result of his neglect or misconduct in the performance of his duties as envisaged in Section 50 of the Act.

13. Respondent No. 2 relying on the aforesaid reports and without making the Petitioner aware of the contents thereof held the charges to be prov-d and found it a (sic) case for taking action against the Petitioner u/s 16(1)(e) of the Act by removing him from membership of the Committee and disqualifying him for a period of five years. He made a reference to the explanations of Gamp Jal and the Petitioner and considered them to be unsatisfactory. It may be stated that in his explanation the Petitioner asked for a personil interview and the same was allowed to him but he did not actually appear. Failure of the Petitioner, however, to appear could not absolve Respondent No. 2 of doing his duty according to law. The Petitioner was held to have induced the then President Ganga Jal and other members to have voted for the expenditure involved in the construction of the chabutra, the cost of which as stated in the order of this Respondent comes to Rs. 73.25 though no such inducement was referred to in the charge-sheet served on the Petitioner. This Respondent then gave a finding that the Petitioner had flagrantly abused his position. Whatever may be the value of the reasons given by Respondent No. 2, the argument that no reasons have been given cannot be sustained. Mr. Anand Sarup then relied on the order itself a copy whereof was delivered to him in the course of arguments, and submitted that it was liable to be quashed on the short ground that Respondent No. 2 in passing the same relied on same reports contents of which were not communicated to the Petitioner. There is force in this contention. It is an elementary and well-established rule of natural justice that any authority exercising functions judicial, quasi-judicial or even administrative, affecting the rights of a third party must disclose to the delinquent the material on which he proposes to rely for giving a finding adverse to such a person so that the latter can get an opportunity to meet the case made out on the material intended to be used against him. It is conceded before me on behalf of the State that the aforesaid three reports used against the Petitioner were not communicated to him before the impugned order was passed. The order is, therefore, liable to be quashed on this ground as well.

14. The last two contentions of the Petitioner may be disposed of together. It is

submitted that the Petitioner has not flagrantly abused his position and the order of Respondent No. 2 is arbitrary. This contention too is not without substance. It is true that this Court in the exercise of its extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India is not sitting in appeal over the orders passed by competent authorities which are within their jurisdiction but it can certainly examine the reasons where such reasons have been given in order to determine if they are right in law and the action of any such authority is within the scope of its powers and in consonance with the scheme of the Act or any other rule of law which permits the exercise of such powers. The reasons must indeed be sufficient for the exercise of the power by the State Government. In other words, it is open to this Court on the proved facts of each case to form its own judgment and decide whether the conduct of a member of the Municipal Committee, described as flagrant abuse of his position, is really so as contemplated by Section 16(1)(e) of the Act. There is no doubt that in the matter of removal of a person from the membership of the Committee for the alleged flagrant abuse of position the determination of the State is to some extent subjective, but the same has to be based on an objective data. A person duly elected as a member of the Municipal Committee has a legal right to continue as such and the State cannot just arbitrarily on its own subjective determination in utter disregard to the objective data and without a proper judicial approach remove him from membership thereby depriving him of his valuable right to hold that public office. A person cannot be condemned simply by repeating the language of the statute and styling an act of a municipal commissioner as a flagrant abuse of his position.

15. A Full Bench of this Court in a case reported as *The State of Punjab v. Bhagat Ram Patungu* (1969) 71 P.L.R. 625., has held that the order of removal of a Municipal Commissioner u/s 16(1)(e) of the Act is a quasi-judicial order and the proceedings relating thereto are of a quasi-judicial nature. The learned Judges referred to the judgment of Tek Chand J. in *Panna Lal v. The Secretary to Government*, (1968) 70 P.L.R. 244 where it was observed that the word "flagrant" could not be lost sight of. There can be no denying the fact as observed by Tek Chand J. in *Panna Lal's* case that emphasis must be laid upon the nature of the abuse of position which, in a particular set of circumstances, must be such as to be glaring, notorious, enormous, scandalous or wicked. On the facts as found in *Bhagat Ram Patungu's* case, bearing the meaning of the word "flagrant" in view, the learned Judges considered the conduct of Bhagat Ram a member of the Municipal Committee amounting to flagrant abuse of his position. As to what is a "flagrant abuse" depends on the facts and circumstances of each case and one has only to remember that it is not every abuse of position which described differently is a bad use thereof or its use for a wrong purpose, that will amount to a flagrant abuse. It is indeed conceded by the learned Counsel for the State that this Court can go into the question as to whether the conduct of a member of the Municipal Committee really is a flagrant abuse of his position. He could not possibly urge to the contrary in view of the Full Bench

decision in Bhagat Ram Patanga's case, which was preceded by a long string of authorities reported as Norata Ram v. The State of Punjab (1964) 66 P.L.R. 226, Satya Dev v. State of Punjab (1964) 66 P.L.R. 381, State of Punjab v. Sugna Ram (1964) 66 P.L.R. 828, Panna Lal's case (supra) Sardari Lal v. The State of Haryana (1968) 70P.L.R 497 and Prem Swaroop Datta v. The State of Haryana , (1968) 70P.L.R. 642.

16. In the instant case, what has been found by Respondent No. 2 by relying on the exparte reports of some officers, copies whereof were not supplied to the Petitioner, is that the Committee had constructed some sort of a covering over a municipal drain passing on the back-side of the house of Amarti Devi wife of the Petitioner. Respondent No. 3 who is now the President of the Municipal Committee and supporting the Government decision was a party to the resolution of the Committee passed on 8-1 1967, whereby the drain was ordered to be covered. The Asst. Secretary Local Government made an on-the-spot enquiry and reported that the construction could be done cheaper and according to Respondent No. 2 the cost of construction, as now worked out, comes to Rs. 73.25 though the Petitioner claims that it was only Rs. 20/-. The drain does not pass through the house of the Petitioner's wife and there are other houses nearby. It may be that it gave a better look to Amarti Devi's house as well but as citizens she and her husband had a right to ask the Committee that the drain which must be emitting foul smell be covered. A Municipal Committee is duty bound to (sic)nd its hunds on public streets and covering drains etc. There was no material before Respondent No. 2 on which exercising his quasi-judicial functions he could come to the conclusion that the Petitioner was responsible for fitting the resolution passed. Respondent No 2 does not indeed, in his order, marked "X" even refer to the details and reasons given in the explanation of the Petitioner in his defence and instead just mentions the reports of the officers and holds the Petitioner guilty not only of abuse of his position but of flagrant abuse thereof. He does not seem to have understood the difference between an abuse and a flagrant abuse. The same charge had been levelled against Ganga Jal, the ex-President of the Committee, and by the same order he too was found guilty of using his position for the benefit of the Petitioner. As already stated, if Ganga Jal had got the resolution passed for the benefit of the Petitioner the charge could have been against the Petitioner that he used his influence with Ganga Jal, ex-President to get the resolution passed but no such charge was made out and it was deliberately kept vague by using the words that he "managed to get the chabutra constructed." It is also not known as to what is the extent of the chabutra and how far it is more than what the Committee intended when according to the report of the Assistant Secretary, the construction could have been made cheaper. All these circumstances irresistibly lead to the conclusion that Respondent No. 2 did not act in a manner expected of an authority exercising quasi-judicial functions. There was admittedly party faction in the Committee and the officers had also made reports to that effect. There was the explanation of the Petitioner, merits of which could be considered and reference

made thereto in his order but Respondent No. 2 without applying his mind and making a judicial approach, just removed the Petitioner from membership of the Committee. It was just a small matter which seems to have been raked up and magnified because of party faction in the Committee in order to take action against the Petitioner by holding him guilty of abuse of his position without clearly attributing to him. any specific act which could constitute a flagrant abuse

17. There is another aspect of the matter which cannot escape notice. Election to the office of the Vice-President fell due in June, 1968. but it was not held till ;9th January, 1969, when in the meantime the State Government had removed the Petitioner from membership by its order dated 10th January 1969. The explanation for not holding the meeting as given by Respondent No. 3, is wholly unsatisfactory. He has, really speaking, given no explanation and kept silent, presumably deliberately. It is stated only this much in his return that the Deputy Commissioner had by his letter No. 2389/LF dated 1st July, 1968, appointed the General Assistant as observer in the election of the Vice-President, but he does not mention as to why in spite of the appointment of the observer on 1st July, 1968, he could not hold a meeting till 19th January, 1969. The State Government in its return has, however, given some explanation but that too does not take the matter much further. It is said that Respondent No. 3 requested the General Assistant to fix any date convenient to her except 15th July, 1968, to 18th July, 1968 because during those days he was to be away to Chandigarh. The General Assistant was requested by him to give any date during August, 1968. It is further stated in the return of the State that in the mean-time Mrs, Kamla Chawdhry, the then General Assistant, was transferred and another officer took over. He informed the President Respondent No. 3 that the meeting could take place on 10th October, 1968, but the Secretary of the Committee reported to him that the President would be out of station and the meeting could not be fixed on that date. It was on 16th December 1968, after more then two months the President asked for the date and the General Assistant informed him that to avoid further delay he (President) should fix it himself and inform him at least ten days in advance. It appears that 19th January, 1969, was then fixed by the President by which date the Petitioner and Ganga Jal had been removed from membership of the Committee. It was open to Respondent No. 3 also to have stated these facts but he was conscious of his own conduct in delilerately delaying the meeting and, therefore did not chose to state them. It is established beyond doubt that the President Respondent No. 3 was delaying the convening of the meeting for ulterior reasons and may be because he was expecting removal of the Petitioner from the membership of the Committee by Respondent No. 2.

18. I am satisfied on the facts of this case that there was no abuse of his position by the Petitioner, much less flagrant abuse, justifying the removal of the Petitioner from the membership of the Committee and further disqualifying him for fire years u/s 16 of the Act.

19. For the foregoing reasons, the writ petition is allowed and the impugned

order of the State Government (Annexure "F") directing the removal of Madan Lal Petitioner from the membership of the Municipal Committee, Uklana, Mandi and further disqualifying him for a period of five yars from seeking election, quashed. The Respondents will pay the costs of the Petitioner which are assessed at Rs. 200-.