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**(1999) 07 P&H CK 0105**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 5079 of 1999**

Naresh Kumar Sanghi

APPELLANT

Vs

State of Haryana

RESPONDENT

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**Date of Decision :** 05-07-1999

**Acts Referred:**

**Citation :** (1999) 2 PLJ 174 : (1999) 4 RCR(Civil) 480

**Hon'ble Judges :** N.K.Sodhi, J and N.K.Sudh, J

**Advocate :** Mr. M.L. Saini Advocate, Mr. J.S. Malik, Advocates for appearing Parties

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## Judgement

N.K. Sodhi, J.

1. What is challenged in this petition filed under Article 226 of the constitution is the order dated 7.4.1999 passed by the Director, Local Bodies, Haryana, Chandigarh suspending the petitioner from the office of President as well as member of the Municipal Council, Narnaul for a period of six months or till the conclusion of the inquiry or investigation pending against him whichever was earlier. Facts giving rise to this petition may first be noticed;

2. Petitioner was elected Municipal Councillor from Ward No. 18, Municipal Council, Narnaul (for short the Council) in the elections held on 28.12.1994. Names of the elected members were notified in the official gazette on 24.1.1995 and they took oath of office on 3.2.1995. One Ashok Vohra a former Councillor made a complaint against the petitioner on 24.11.1995 alleging therein that a piece of land belonging to Zila Parishad was got registered by the petitioner in favour of one Kamla Devi on 30.12.1994 on the basis of a bogus power of attorney. Deputy Commissioner, Narnaul got the matter inquired into at his level and found the allegations prima facie established. A recommendation was accordingly made to the Director, Local Bodies, Haryana for taking necessary action against the petitioner. The Director referred the matter to the State Government which appointed the Sub Divisional Magistrate, Narnaul as the Enquiry Officer to inquire into the charge levelled against the petitioner. After

considering the inquiry report the State Government by order dated 24.3.1998 removed the petitioner from the membership of the council. The Government by a separate order directed the registration of a criminal case against the petitioner and accordingly F.I.R. No. 60 under sections 420/465/467/471 and 120B Indian Penal Code was registered against the petitioner and others at Police Station, Narnaul which is under investigation. Petitioner filed civil writ petition 4789 of 1998 in this court challenging the order dated 24.3.1998 removing him from the membership of the Council. This writ petition was allowed by a Division Bench on 15.2.1999 on the ground that the State Government passed the order of removal without considering the reply filed by the petitioner. The case was remitted back to the authorities for taking a fresh decision in accordance with law. The matter is still pending with the State Government. Meanwhile the Director exercising the powers under sections 14A and 22A of the Haryana Municipal Act, 1973 (as amended upto date and hereinafter called the Act) has by order dated 7.4.1999 placed the petitioner under suspension and it is this order which is now being impugned before us.

3. We have heard counsel for the parties and find no merit in the writ petition. Section 14A of the Act which was introduced on 19.8.1998 empowers the Director to suspend any member of a committee where a case against him in respect of any criminal offence is under investigation and in the opinion of the Director the charge made or proceedings taken against him are likely to embarrass him in the discharge of his duties. Again, under clause (b) of this newly added section the Director can suspend a member of a committee during the course of an inquiry for any of the reasons for which the member can be removed under section 14 after giving him a reasonable opportunity of being heard. It was strenuously urged by the learned counsel for the petitioner that the Director could not exercise the powers under section 14A of the Act since no inquiry was pending against the petitioner and, therefore, the impugned order of suspension was without jurisdiction. We regret our inability to agree with the learned counsel. When the earlier writ petition filed by the petitioner was allowed on 15.2.1999 the case was remitted back to the State Government for taking a fresh decision in accordance with law. The matter is, therefore, pending with the State Government which had earlier ordered an inquiry against the petitioner. No doubt, the Enquiry Officer submitted his report but the State Government has yet to take a final decision thereon. The inquiry proceedings against the petitioner have, therefore, to be taken as pending and will conclude only when a final order is passed by the State Government. Since the inquiry is pending against the petitioner it was open to the Director to suspend the petitioner under clause (b) of Section 14A of the Act because the charge if proved can lead to the removal of the petitioner under section 14 of the Act. Admittedly, he was afforded an opportunity of being heard before the impugned order of suspension was passed and he submitted his explanation on 12.3.1999 which was considered by the Director. Moreover, an F.I.R. stands registered against the petitioner and the same is under investigation and the Director has opined that the charge made or

proceedings taken against the petitioner are likely to embarrass him in the discharge of his duties. This being so, the Director was equally justified in exercising the powers under clause (a) of Section 14A of the Act. No fault can thus be found with the impugned order suspending the petitioner from membership of the council.

In the result, the writ petition fails and the same stands dismissed with no order as to costs.