

(1968) 02 P&H CK 0015
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 216 of 1968

Prem Swaroop Datta

APPELLANT

Vs

The State of Haryana

RESPONDENT

Date of Decision : 02-02-1968

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1968) 02 P&H CK 0015

Hon'ble Judges : Tek Chand, J

Bench : Single Bench

Advocate : G.P. Jain and G.C. Garg, for the Appellant; Anand Sarup Advocate General Haryana, for the Respondent

Final Decision : Allowed

Judgement

Tek Chand, J.—This is a petition under Articles 226/227 of the Constitution of India for the issuance of an appropriate writ quashing the orders of the Government passed u/s 16 of the Punjab Municipal Act, 1911, removing the petitioner from the Membership of the Municipal Committee, Rewari, and also disqualifying him for election for a period of two years (Annexure II). The petitioner was elected a member of the Municipal Committee, Rewari, in the year 1961. There is a footpath in front of the shop known as M/S. Bhagwan Stores, Rewari, in which the petitioner is a partner. The surface of the footpath which was paved with bricks had become uneven and it was said to be in a very bad state of disrepair. The customers entering or leaving the petitioner's shop experienced difficulty. The condition of footpath was further worsened when the Telephone Department laid underground lines in front of the shop, Petitioner's brother and partner, Shri Anand Swaroop got the damaged portion of the pavement repaired at his own expense and put cement to bring the level of the repaired portion to that of the road. On 4th of October, 1961, information was given to the Executive Officer of the Municipal Committee stating that though the repairs to the damaged portion had been effected at the applicant's expense, no

claim was made to Municipal Committee's title. On 7th of October, 1964, a notice u/s 172 of the Punjab Municipal Act was sent to M/S. Prem Swaroop and Anand Swaroop, the partners of the petitioner, requiring them to remove the concrete floor from the footpath vide Annexure A. It was further stated in this notice that the construction had been made without permission and the bricks used were of the footpath. Shri Prem Swaroop and Anand Swaroop were required to comply with the notice within 72 hours otherwise action u/s 172 of the Act would be taken against them.

2. Section 172 punishes a person who without the written permission of the Committee makes any immovable encroachment on or under any street, on over and under any sewer, or watercourse or erects or re-erects any immovable overhanging structure projecting into a street at any point above the said ground level. The punishment is of a fine extending to fifty rupees.

3. A reply to the above notice was sent to the Executive Officer vide Annexure B. It was stated that the notice was mala fide, wrong and misconceived and the action was prompted by their enemies who had mis represented facts. They stated that in front of their shop, the pavement of bricks was so bad that it had become uneven and while entering or going out of the shop, customers used to fall down because of the unevenness. They had themselves effected repairs on the damaged portion of the pavement at their own expense and had plastered the surface with cement maintaining the level and the continuity of the public street. It was further averred that no portion of the pavement had been occupied by them and had continued to be the passage as; before vesting in the Committee and that there was no question whatever of making any encroachment. They said that what they had done was in the nature of an improvement by repairing the portion which was in a bad state of disrepair. No theft of any bricks was committed. No property of the Municipal Committee was damaged. On the other hand, it was improved. It was also stated that they did not claim any rights whatever either of ownership or of possession over any portion of the street or the pavement, apart from the right of free passage over it, along with any other member of the public. It was also submitted that an application had been filed before the Deputy Commissioner complaining of the wrong action on the part of the Municipal Committee and it was requested that the intended action might be dropped and the notice withdrawn to avoid unnecessary litigation A copy of the application made to the Deputy Commissioner is Annexure C, in which, inter alia, it was mentioned that the file of the case be perused and the matter be dropped to avoid harassment and injury to the applicants and to obviate unnecessary litigation.

4. On 19th of July, 1965, the Municipal Committee at its general meeting passed a resolution withdrawing notice issued under sections 172 and 220 of the Act and the matter was dropped vide Annexure D. In the resolution, it was specifically mentioned that Shri Prem Swaroop (petitioner) did not participate. The Sub-divisional Officer (Civil), Rewari, suspended the above resolution but the

Municipal Committee passed another resolution on 29th of November, 1965, re-affirming its previous resolution dated 19th of July, 1965, vide, Annexure E. It was expressly mentioned in the resolution that Shri Prem Swaroop did not participate. On 29th of November, 1965, the Municipal Committee passed another resolution condemning the unnecessary interference by the Sub divisional Officer (Civil) in the Municipal affairs.

5. The petitioner received a notice from the Secretary to Government, Punjab, Local Government Department (Annexure F) requiring him to show cause as to why he be not removed from the membership of the Municipal Committee u/s 16(1)(e) of the Punjab Municipal Act. This notice accompanied a statement of allegations made against the petitioner. In the notice, it was stated that the petitioner had constructed a chabutra in front of his shop without the permission of the Municipal Committee, that he had dismantled the brick pavement and the foot path which had resulted in a loss of money and property to the Municipal Committee and thus he had rendered himself liable for removal from the membership of the Municipal Committee, Rewari, within the meaning of section 16(1)(e) of the Act. In the accompanying statement of allegations the same facts were repeated and it was then said :-

The dismantling of the brick pavement and the footpath and the construction of a chabutra thereon by him without the permission of the Committee has resulted in huge loss of money and property to the Municipal Committee, Rewari. This default on his part is actionable u/s 16(1)(e) of the Punjab Municipal Act, 1911.

6. In reply to the above notice, the petitioner submitted a written explanation under registered cover to the Director of Urban Local Bodies, Punjab, Chandigarh, within the time limit allowed. In this written explanation, he had reiterated the facts about uneven and damaged condition of the footpath in front of his shop and that the condition had worsened when the Telephone Department laid their, underground lines. Out of honest motives, his brother, Anand Swaroop, a partner, had got the portion repaired by paving it at his own expense and had plastered it with cement on the same level as that of the road. It was denied that any bricks the Municipal Committee were removed. It was further stated that the land in question was not occupied by them but continued to be a passage owned by the Committee. No Chabutra was ever constructed. They had placed a movable takhatposh on a part of the land and have been paying the bazari fee for the last many years. It was said that the repairs done to the damaged portion were in the nature of a free gift for the benefit of the Committee and the general public. It was also said, that the facts had not been verified at site or from the record of the Committee. It was then mentioned "my brother and I do not claim any rights whatsoever either of ownership or of possession over that portion of the street". They mentioned that the Deputy Commissioner had stayed further action in the matter. Regarding the resolution of the Committee, it was said that the petitioner did not take any part. The Committee was not put to any financial loss whatsoever nor had it been deprived of six hundred bricks. It was a case of

unnecessary harrassment as a result of party faction. It was in these circumstances that the order u/s 16(1)(e) was passed for removing the petitioner and disqualifying him for election for a period of two years, (vide Annexure H). The petitioner on 16th of December, 1967, submitted a representation to the Governor vide Annexure I. This was followed by a reminder to the Governor. On 17th of January, 1968, the petitioner sought an interview with the Secretary to Governor who directed him to see the Secretary to Government, Local Self Government, State of Haryana and the latter told the petitioner that his representation was rejected by the Governor and the order dated 9th of January, 1968, was conveyed to the petitioner at Gurgaon instead of at Rewari vide Annexure J. In the petition, it was stated that the petitioner had not been afforded any opportunity for establishing his innocence, he had not been furnished with a copy of the inquiry report, nor had he been shown any other material relied upon and used against him, that no consideration had been given to his explanation and the order of removal was passed mala fide without applying the mind to the facts, that the petitioner had not in any way abused his power or position within the meaning of section 16(1)(e) of the Act, that there was no allegation that he had taken undue advantage of his position as a member or had in any way tried to use his influence against the interests of Municipal Committee, that no loss had been caused to municipal funds and his conduct in no way amounted to flagrant abuse of power.

7. On behalf of the State of Haryana, an affidavit by Shri Shiv Kumar Sharma, Assistant Secretary to Government, has been filed. It was asserted that the petitioner had flagrantly abused his position as a member by dismantling the paved footpath and by putting up a cement concrete slab in its place 15" x 15" x 1 1/3" and used six hundred bricks of Municipal Committee. It was stated that the petitioner had misused his position as a member "by inducing the Municipal Committee to pass a resolution withdrawing the notice given by Executive Officer". The above allegation appears for the first time in the affidavit. It was also stated that the Municipal Committee had no authority to pass such a resolution as powers u/s 172(2) vested exclusively in the Executive Officer by virtue of section 4 of the Punjab Municipal (Executive Officer) Act, 1931. It was also said that the petitioner had, for the second time misused his position as member by inducing the Committee to pass resolution dated 29th of November, 1965, condemning interference by the sub Divisional Officer (Civil) in the municipal affairs. In para 6 of the affidavit, it was stated that on receipt of the explanation furnished by the petitioner, Government secured the comments of the Sub Divisional Officer (Civil) Rewari, and the Director, Urban Local Bodies, Haryana, on this explanation. In para 7 of the affidavit, it was stated that after duly considering the explanation of the petitioner in the light of the comments furnished by the Local Officers and taking into consideration all the material made available to Government by the petitioner and the Local Officers, Government decided that the petitioner had flagrantly abused his position as member within the meaning of section 16(1)(e) of the Act.

8. Before taking up the several points raised on behalf of the petitioner, the provisions of section 172(1) may be examined with a view to find out what is meant by the words "any immovable encroachment on or under any street". It has not been denied in the return filed by the State that there was no chabutra constructed and that the portion of the footpath in front of the shop had been repaired and cement put on the surface at the same level as that of the road. The position of the petitioner from the beginning was that this was done by his brother Anand Swaroop who is a partner in the shop and that no claim was laid to ownership or possession of the Municipal Committee's title. The question is whether the impugned Act could be termed "encroachment". According to Jacob's definition in "Terms de la ley", an encroachment is an unlawful gaining upon the right of possession of another man" quoted in *Easton v. Richmond L.R.* 7 Q.B. 73. In this sense, a fencing in or enclosing of a portion of a street or highway or construction of a wall would be an encroachment. Encroachment means an intrusion without right, or possession. It is in the nature of an invasion. The narrowing of a street by occupying a portion of it would be an encroachment. The erection of a structure over the soil of another is an obvious encroachment. So would be a structure projecting over the property of another. In this case, having regard to the nature of the repairs done and without interfering with the use as a footpath, it cannot be said that section 172 of the Act has been violated by virtue of any encroachment on or under any street. It may be mentioned that the position taken by the petitioner and his brother was that no claim was being laid to the ownership or possession of the Municipal Committee. The notice u/s 172, is, to my mind misconceived. That is why it appears that no steps have been taken u/s 220 of the Act.

9. What can be said to have happened in this case is that the Municipal Committee had neglected to make the footpath safe when it has become uneven and in particular after the excavation resultant on laying underground telephone lines. The nuisance was either created by neglect of Municipal Committee or by other causes. The Municipal Committee in either case owed it to the users of the pathway to abate the nuisance to the end, that the public may pass safely over the footpath. The nuisance was abated by the petitioner's brother, in all probability with the full knowledge and assent of the petitioner. The abatement of the nuisance by repairing the depressions in the footpath and by making it even and on level with the surface of the footpath, the petitioner cannot be said to have committed an Act of encroachment.

10. The next question for consideration is whether this Act if done at the instance of the petitioner, can be said to be such which could conceivably call for an action for his removal u/s 16(1)(e) of the Act. The effect of section 16(1)(e) may now be considered in the light of the facts of this case. The relevant portion of section 16(1) is as under:-

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

(a) * * *

(b) * * *

(c) * * *

(d) * * *

(e) if, in the opinion of the State Government he has flagrantly abused his position as a member of the committee or has through negligence or misconduct been responsible for the loss, or misapplication of any money or property of the committee.

(f) * * *

(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) * * * (3) * * *

Under section 16(1)(e), a member is liable to be removed in either of the two contingencies, the first contingency being his having flagrantly abused his position as a member of the Committee. Alternatively, he is liable to be removed if through negligence or misconduct, he has been responsible for the loss or misapplication of any money or property of the Committee. In this case, the allegation against him was that he had occasioned loss of money or property to the Committee. In the notice u/s 172, issued from the Executive Officer (Annexure A), the allegation was that he had made a construction on the footpath and that the bricks used by him were of the Municipal Committee. There was no suggestion that he had flagrantly abused his position as a member. Again in the communication dated 3rd October, 1966 from the Secretary to Government, Punjab, Local Government Department (Annexure F), what was alleged against him was that he had constructed a chabutra in front of his shop, the brick pavement and the footpath had been dismantled by him "which resulted in a loss of money and property to the municipal Committee, Rewari". It was mentioned in para 2 that for having caused loss of money and property, he had rendered himself liable for removal from the membership of the Municipal Committee within section 16 (1) (e). The statement of allegations was on similar grounds. There was no allegation either express or inferential that he had "flagrantly abused his position as a member of the Committee" as contained in the Government notification of 21st October, 1967 (Annexure H). In the affidavit filed on behalf of the Government, in para 2, it was stated that he had flagrantly abused his position as a member of the Committee by dismantling the paved footpath in front of his shop. It seems as has been contended at the bar that the allegation of flagrantly abusing his position as a member was in the nature of an

after-thought. The petitioner's throughout has been that the repairs were done to the footpath by his brother who is a partner in his firm and not by him. If it is an act of the brother, then the petitioner cannot be said to have in any way made use of his position as a member in effecting repairs. It has nowhere been alleged how his position as a member was the occasion for repairing the footpath which was done at the firm's expense fit Hough the loose bricks lying there had been utilised for the purpose. The bare reading of section 16(l)(e) will show that flagrantly abusing position as a member of the Committee is a misconduct, distinct from that of being responsible for loss or misapplication of any money or property of the Committee. The latter act includes negligence and also misconduct. Negligence cannot be considered a flagrant abuse of position though a misconduct resulting in loss or misapplication of the Committee's money or property may conceivably be. The provision draws a distinction between what is flagrant abuse of position as a member and an act of negligence or misconduct.

11. It is significant that when the petitioner received notice, there was no allegation of his having abused his position as a member. In this connection, the proviso is important, for it requires" the State Government before notifying the removal of a member to communicate to him the reasons for his proposed removal, and also giving him an opportunity of tendering an explanation in writing. In his reply, the petitioner concentrated on the charges as contained in the statement of allegations namely that his brother had put the damaged portion of the footpath in front of the shop in a state of repair at his own expense and without interfering with the Committee's ownership and possession. It was also alleged that he was being harrassed out of malice. If the reason for his proposed removal was being deemed as flagrant abuse of his position as a member, this ought to have been communicated to him. It was then open to him to say that his position as a member had nothing whatever to do with the paving of the damaged portion of the footpath. There has been no attempt at any stage to link the act of paving with his position as a member In my view, the petitioner was entitled to a notice that ha was deemed to have flagrantly abused his position as a member and then to an opportunity of showing, that such conduct as was imputed to him, had no connection with his position. This is a lacuna which cannot be overlooked.

12. The next question is whether he was given a reasonable opportunity of tendering an explanation in writing after having been told of the facts and the considerations, which had led to the taking of an action against him. In para 3 of the affidavit, it was stated that the petitioner misused his position as a member by inducing the Municipal Committee to pass a resolution withdrawing the notice given by the Executive Officer. In para 4, it was stated that the petitioner had again misused his position as a member by inducing the Committee to pass a resolution No. 45 dated 29th November, 1965, condemning interference of the Sub-Divisional Officer (Civil) in the municipal affairs. Both these facts have been mentioned for the first time in the affidavit furnished in this Court. This was never said in the notice to the petitioner or in the statement of allegations.

Beyond giving a conclusion that he induced the Municipal Committee to pass the two resolutions, there is no further indication as to the nature of inducement or the manner in which he had influenced the other members. When the resolutions in question were passed it was clearly stated that he had not participated. Assuming that these considerations weighed with the Government Authorities, they ought to have been communicated to the member concerned and his explanation called. Moreover, it can hardly be said to be a misconduct if a member persuades other members to pass a resolution. If the resolution is improper and beyond the scope of the Committee's jurisdiction, it can always be suspended and made ineffectual.

13. In para 6 of the affidavit, it is deposed that on receipt of the explanation furnished by the petitioner, Government secured the comments of the Sub Divisional Officer (Civil), Rewari, and of the Director, Urban Local Bodies, Haryana, on the explanation. In para 7, it is stated that Government decided to remove the petitioner after considering the petitioner's explanation in the light of the comments furnished by the Local Officers, and taking into consideration all the material made available to Government by the petitioner and the Local Officers. In other words, the Government allowed its judgment to be influenced by the comments of the Local Officers and of the Director, Urban Local Bodies but these comments were not communicated to the petitioner, and he was given no opportunity to rebut the case put against him. In other words, the petitioner has been condemned on the strength of the material which was withheld from him and to which he had no access. This conduct is not in consonance with the requirements of the principles of natural justice. It cannot be said that he had been given a just, fair or an adequate opportunity to meet the case against him. The material which was made available to Government by the Local Officers, having been kept from the petitioner, he could not controvert what was said against him. In this case, the rule of natural justice has been violated.

14. In *Ramesh Kapur Vs. Punjab University and Another*, it was observed : -

The cases, which are binding or authoritative, enunciate the fundamental principle that no party ought to be condemned unheard; and if his right to be heard is to be a reality, he must know in good time the case which he has to meet.....

It may be added that if the right of a candidate to be heard is to be a reality, he must know the case which he has to meet and if he asks the University authorities to supply him with necessary details of such material or evidence on which the case against him is based, any refusal to do so will be prima facie violative of the rule of natural justice. (page 127).

15. The Division Bench to which the Full Bench remanded the case said : -

Apart from this question, however, there can be no manner of doubt that the material collected behind the back of the appellant was highly prejudicial to him and if the same was taken into consideration by the authorities concerned

without giving an opportunity to the appellant to rebut the same, the university authorities did not comply with the rules of natural justice.

As has been held by the Full Bench, the opportunity that is to be given to the candidate is to be a reality and not a mere farce and before he can meet his case and give a proper explanation, he must be told not only what is going to be considered against him but also the persons who are giving information against him. He may be able to show to the authorities concerned that the statement made by a particular person is not worthy of credence for certain reasons, beside showing that the statement is incorrect. In the present case, where the statements were recorded behind the back of the appellant, which were prejudicial and which were not brought even to his notice, he cannot be said to have got this adequate opportunity, (page 128).

The above observations have an important bearing on this case in so far as the comments of the Local Officers which were taken into consideration while condemning the petitioner were never brought to his notice and he was never given an opportunity to rebut them.

16. To the same effect are the observations of a Division Bench of this Court in Suresh Kumar v. The Punjab University (1965) 67 P.L.R. 693 and also of an-other Division Bench in Kamlesh Kumari v. The Punjab University (1965) 67 P.L.R. 1162. The affidavit filed on behalf of the State leaves no room for doubt that Government was influenced against the petitioner by material which was not made available to him and, therefore, he was not given an opportunity of tendering an explanation in refutation of the material which had influenced the opinion of the Government.

17. Apart from the fact that in the notices, no allegation of abuse of position was made, it is also noticeable that the manner of such abuse has not been indicated at any stage. Nothing has been said how and whom the petitioner persuaded to pass the resolution withdrawing notice u/s 172. As to what is understood by the phrase "he has flagrantly abused his position as a member" occurring in section 16(1)(e) of the Act, I had an occasion to consider it in some detail in Panna Lal v. The Secretary to Government, Haryana, Local Government Department, Chandigarh 1967 C.L.T. 828, wherein I had observed : -

Flagrantly "means glaringly, notoriously scandalously. Literally flagrant means blazing, burning, flaming, glowing. In respect of an offence or a misconduct, it is used in the sense of glaring, notorious, scandalous, that is to say "flaming into notice". The framers of the statutory rules were drawing a distinction between a mere abuse of one's position and a "flagrant abuse," to which the epithets of "enormous""", "heinous" or "glaringly wicked" could be applied. A position is said to be abused when it may be put to a bad use; or for a wrong purpose. In the sence of abusing one's position, the terms has meaning varying in shades from irregular and improper use not necessarily with a had motive, to an intended or deliberate corrupt practice. The statutory rule as worded clearly suggests that

abuse of one's position unless flagrant, would not result in removal of a member of the committee. The word "flagrantly" before "abused his position" cannot be overlooked. It indicates a stress being laid upon the nature of abuse of position which must in the circumstances be glaring, notorious, enormous, scandalous or wicked.....

These words are not a formula which, uttered, would amount to any incontrovertible findings that the petitioner's conduct was sufficient opprobrious as to merit removal from membership of the Committee in accordance with section 16(1)(e). It is the function of the Court to construe the language of a statute, and apply it to the proved facts of a case, and then to see, if the conduct to which exception had been taken merited the use of the reproachful epithet. It was not the intention of the Legislature to permit the State Government to remove a member by simply styling his conduct to be a flagrant abuse of his position. What matters is not the label affixed on the conduct of the petitioner by the State as the opposite party, but whether his conduct, in the light of the established facts was so odious as could reasonably warrant the use of the derogatory appellation.

Reference may also be made to *Bhagat Ram v. The State of Punjab* 1963 CLJ. 528, that :

It is only in the discharge of his duty as a member that if a person is guilty of flagrant abuse of power, his case would be covered by section 16(1)(e).

By way of contract, reference may also be made to the decision of the Full Bench in *S. Joginder Singh v. The State of Punjab*" (1963) 65 P.L.R. 267 in which a member of a Municipal Committee had encroached upon municipal land had imported goods in the municipal area avoiding payment of octroi duty and doing similar other acts while sitting as a member of the Committee which were considered illustrative of the abuse of his position as a member. Dulat, J. delivering the judgment at page 278 emphasised that the clause "flagrantly abused his position" means that if a member of a Committee in regard to his duty, does any act or acts, which shock a reasonable mind, then he can be removed by the State Government that has to form that opinion.

18. Applying these decisions, by no stretch of language, it can be said that what the petitioner is alleged to have done, in respect to the paving of the footpath which was in a state of disrepair at his own expense, could be deemed as an act which would shock a reasonable mind and could, therefore, be a flagrant abuse of his position.

19. In *State of U.P. v. Mewa Lal Yadav* 1964 All. L.J. 120, the respondent, a member of the Municipal Committee, had mentioned in his reply to a show cause notice that he was not in a position to give a detailed explanation in the absence of the inquiry file, the Division Bench held that before taking the drastic action under the U.P. Municipalities Act of removing the member, the authorities should have made the papers available to the respondent. It was also observed that u/s

40(3) of the U.P. Municipalities Act which is similar to section 16(1)(e) the conduct of the member to which exception was taken must be conduct in his capacity as a member and that it should be such as can amount to a flagrant abuse of his position as a member.

20. Letters Patent Bench in *State of Punjab v. Sugna Ram* (1964) 66 P.L.R. 828 held that orders passed by the State Government u/s 16(1)(e) of the Punjab Municipal Act are subject to scrutiny by the High Court with the view to check two matters first; whether the grounds of removal are not extraneous to the conduct of the member as such and, secondly, if the grounds are not extraneous, to see that the act or acts done by the member in disregard to his duty are such as can shock a reasonable mind.

21. In view of what has been stated above, there is no merit in the contention of the counsel for the State that a proper opportunity as required by law was given to the petitioner. The contention that making of a pavement on the footpath in front of the shop by using bricks of Municipal Committee lying there being without permission was by itself an abuse of power as a Municipal Commissioner, must merit dismissal in view of the law as expounded in the decisions referred to above. Another argument that has only to be noticed to be rejected is, that as the Executive Officer alone could issue or withdraw notice u/s 172, in so far as the Municipal Committee passed a resolution withdrawing the notice even though the petitioner did not participate in the proceedings, he should be deemed to have exercised undue influence on his colleagues. The above contention is neither in consonance with logic nor is supported by facts.

22. It is not necessary to deal with the question as to whether the petitioner has been a victim of mala fides of the Local Officers or of persons inimically disposed towards him, who wielded influence with them. The action of the Government, in stigmatising the conduct of paving a footpath at one's own expense which had fallen into a state of disrepair, as "a flagrant abuse" of one's position as a member of the Municipal Committee, is unprecedented and extraordinary, even if the act could not be deemed as a legitimate abatement of nuisance which had been allowed and left unattended by the Municipal Committee. This improvement of the surface of the footpath could by no flight of fancy be deemed a flagrant abuse of position. The provisions of section 16(1) deserve to be construed strictly, but even if they were to be interpreted liberally in favour of the State authority and against the member, sought to be penalised, there does not appear to be even a remote semblance of misuse of position in this case I would, for reasons stated above, quash the impugned order passed by the Governor of Haryana u/s 16 of the Punjab Municipal Act, 1911, removing the petitioner from the membership of the Municipal Committee, Rewari, and disqualifying him for election for a period of two years u/s 16(2) *ibid*, under No. 7888 CI(I)-67/26456, dated the 21st October, 1967 (Annexure H). The petition is allowed and the petitioner will be entitled to his costs.