

(2021) 02 SHI CK 0161
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 724 Of 2021

Raja Nand Sharma

APPELLANT

Vs

State Of H.P. And Others

RESPONDENT

Date of Decision : 12-02-2021

Acts Referred:

Himachal Pradesh Panchayati Raj Act, 1994 — Section 160(E)

Citation : (2021) 02 SHI CK 0161

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Prem Parkash Chauhan, Hemant Vaid, Arvind Sharma, Himanshu Mishra, Raju Ram Rahi, Amit Dhumal

Final Decision : Disposed Of

Judgement

Jyotsna Rewal Dua, J

1. Notice. Mr. Hemant Vaid, learned Additional Advocate General, appears and waives service of notice on behalf of the respondents/State.

2. Heard learned counsel for the parties and gone through the appended record.

3. With the consent of learned counsel for the parties, the matter is being heard and disposed of without calling for the reply. The challenge in the

instant petition is to an office order dated 20.01.2021 (Annexure PÂ1) passed by the District Election officer (Panchayat)ÂcumÂDeputy

Commissioner District Sirmour, H.P. ordering suspension of the petitioner and fixing his headquarter during the period of suspension at office of

Deputy Director of Higher Education, Sirmour at Nahan.

4. Petitioner was working as Senior Assistant at Government Senior Secondary School Paonta Sahib, District Sirmour. As per the documents

appended with the petition, he proceeded on 14 days commuted leave on Medical Grounds w.e.f. 4.01.2021 to 17.01.2021. It appears from the impugned order that the petitioner was deployed as Electoral Officer during elections to various Panchayati Raj Institutions in the respondent/State held in January 2021. He did not attend the electoral duty on 15.01.2021 statedly assigned to him. Consequently in exercise of power under Section 160 (E) of HP Panchayati Raj Act, 1994, the petitioner was placed under suspension.

5. Learned counsel for the petitioner submits that the petitioner was on medical leave w.e.f. 4.01.2021 to 17.01.2021. He had joined on 18.01.2021.

He had no prior information of any order deploying him on Election Duty. In this regard, learned counsel for the petitioner made reference to

Annexure PÂ6 dated 27.01.2021, addressed to the petitioner by Principal Government Senior Secondary School, Paonta Sahib, District Sirmour to the effect that "this office has not received any prior information or any order by the Returning Officer cum Block Development Officer, Paonta Sahib, District Sirmour, (H.P) for deploying/appointing you for Panchayati Election Duty and any Rehearsal."

6. It is seen from the petition that a representation against the impugned order has been preferred by the petitioner to the District Electoral Officer on 22.01.2021 (Annexure PÂ4) for reÂ considering the aforesaid suspension order. This representation is stated to be pending at this stage.

Learned counsel further submitted that the petitioner would be content in case respondent No.2/competent authority is directed to decide his

representation in accordance with law within time bound manner and has further prayed that till the decision of the representation, the headquarter of

the petitioner be fixed at his present place of posting i.e. Government Senior Secondary School Paonta Sahib, District Sirmour H.P. instead of

presently fixed office of Deputy Director Higher Education, Sirmour at Nahan. In this regard, learned counsel for the petitioner has relied upon

following G.I., M.H.A.O.M No.39/5/56ÂEsts. (A) dated 8 th September, 1956: "An officer under suspension is regarded as subject to all other

conditions of service applicable generally to Government servants and cannot leave the station without prior permission. As such the headquarter of a

Government servant should normally be assumed to be his last place of duty. However, where an individual under suspension requests for a change of

headquarters, there is no objection to a competent authority changing the headquarters if it is satisfied that such a course will not put Government to any extra expenditure like grant of travelling allowance, etc. or other complications.â??

In view of the facts and circumstances of the case and keeping in view the prayer made by learned counsel for the petitioner, the instant petition is

disposed of with a direction to respondent No.2/competent authority to decide the representation dated 22.01.2021 Annexure PÂ4, preferred by the

petitioner within one week from today. In the peculiar facts and circumstances of the case and in view of instructions cited by the petitioner, till the

decision of the representation, the headquarter of the petitioner be allowed at his last place of posting i.e. Government Senior Secondary School

Paonta Sahib, District Sirmour H.P. Liberty is reserved to the petitioner to avail appropriate remedy in accordance with law in case he still feels

aggrieved by the order. Pending application(s), if any, shall also stand disposed of.

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