
(2011) 05 P&H CK 0188
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 20370 of 2008

Santbir

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 03-05-2011

Acts Referred:

Citation : (2011) 05 P&H CK 0188

Hon'ble Judges : Ajai Lamba, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ajai Lamba, J.—This petition has been filed praying for issuance of a writ in the nature of certiorari, quashing Orders dated 5.3.2007 and 19.2.2008, Annexure P-2 and P-3, respectively.

2. Vide Order dated 5.3.2002 (Annexure P-2), Deputy Commissioner, Faridabad, directed removal of the Petitioner from the post of Chaukidar of village Badhram, Tehsil Palwal, District Faridabad. Petitioner carried an appeal that has been dismissed vide Order dated 19.2.2008 (Annexure P-3) passed by Commissioner, Gurgaon Division, Gurgaon.

3. Short contention of learned Counsel for the Petitioner is that show cause notice was not given to the Petitioner before passing of order dated 5.3.2007 (Annexure P-2). Had proper opportunity by way of show cause notice been given to the Petitioner, he could have satisfied the Deputy Commissioner in regard to the falsity of the claim of Gram Panchayat, at whose instance the Petitioner has been removed.

4. Affidavit of Shri Dharam Pal, Tehsildar, Palwal, sworn on 15.12.2010, has been filed wherein it has been stated that no show cause notice was given by District Collector to the Petitioner before passing of order of removal, dated 5.3.2007 (Annexure P-2).

5. Order of removal has adversely affected the rights of the Petitioner. Petitioner was required to be given a show cause notice and an effective opportunity of hearing before any order, adverse to the rights of the Petitioner, could be passed. This having not been done, order dated 5.3.2007 (Annexure P-2) is rendered illegal.

6. Since order Annexure P-2 has been passed without affording opportunity of hearing to the Petitioner, order dated 19.2.2008 (Annexure P-3) passed by the appellate authority is also rendered illegal.

7. In view of the above, the petition is allowed. Order dated 5.3.2007 (Annexure P-2) and order dated 19.2.2008 (Annexure P-3) are hereby quashed.

8. It is however made clear that authorities would be at liberty to proceed against the Petitioner in proceedings de-novo. Before taking any action against the Petitioner, effective opportunity of hearing would be given to the Petitioner.

9. Copy of the order be given under signatures of Special Secretary of the Bench.