
(2012) 08 P&H CK 0055

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 10088 of 2011

Smt. Saroj Rani

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 22-08-2012

Acts Referred:

Punjab Panchayati Raj Act, 1994 — Section 17, 19

Citation : (2012) 08 P&H CK 0055

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Advocate : Sansar Kundu, for the Appellant; Yatinder Sharma DAG, Punjab, for the State and Ms. Sonia G. Singh, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Ranjit Singh, J.—This order shall dispose of two Civil Writ Petition Nos. 10088 and 16271 of 2011. Two Panches of village Chak Rakh

Amir Tehsil Jalalabad District Ferozepur vide two separate writ petitions have approached this court with a grievance that resignation letter

submitted by the respondent, Swarna Rani, who was the Sarpanch, has been permitted to be withdrawn and not accepted despite legal position as

contained in Section 17 of the Punjab Panchayati Raj Act. The election of the Gram Panchayat of the village was held on 26.05.2008. Two

petitioners alongwith Swarna Rani, Buta Singh and Paramjeet Singh were elected as Panches. Respondent No. 5, Swarna Rani was elected as

Sarpanch for a period of 21/2 years and for remaining period 2 1/2 years, the petitioner was to hold the post of Sarpanch. This is stated to be on

the basis of writing, which was executed on behalf of the member of the Panchayat. On completion of 21/2 years, respondent No. 5 submitted

resignation to the post of Sarpanch. This was attested by respondent No. 4 and sent to respondent No. 2. The resignation was, accordingly, sent

for approval to respondent No. 3 on 07.02.2011. In the meantime, respondent No. 5 stated to have had change of mind and submitted an

application to withdraw the resignation. In this application, respondent No. 5 disclosed that she had submitted the earlier application due to

political pressures. As per the petitioner, without considering the compromise, respondent No 3 allowed respondent No. 5 to withdraw the

resignation on 07.03.2011. The petitioner even moved an application u/s 19 for passing "No Confidence Motion" against respondent No. 5, which

was considered and now the same is not being taken up for consideration as Section 19 has been abolished and removed from the statute.

2. The sole issue arising for consideration is whether respondent No. 5 could be permitted to withdraw the resignation under the circumstances as

are noticed from the averments made in the petition.

3. In the reply filed on behalf of respondent No. 5, the averment made relating to the compromise that respondent No. 5 having been elected for 2

1/2 years is denied. The justification is, accordingly, given in the reply in support of the action of withdrawal of this letter.

4. Counsel for the petitioner has relied upon Section 17 of the Panchayati Raj Act, which is as under:

(1) The Sarpanch may resign his office by writing under his hand addressed to the Deputy Director concerned and

(2) Every resignation under sub-section (1) shall take effect on the expiry of fifteen days from the date of its receipt unless within this period of

fifteen days he withdraws such resignation by writing under his hand addressed to the prescribed authority.

5. The perusal of the Section would show that where the Sarpanch is to resign from the post in writing it has to be addressed to the Deputy

Director concerned. If that is so, the offer of resignation u/s 17 was to take effect on the expiry of 15 days from the date of its receipt unless within

this period of 15 days, the person submitting such resignation withdraw such resignation by writing under his hand addressed to prescribed

authority. The prescribed authority here would mean Deputy Director.

6. The resignation submitted by the petitioner is placed on record as Annexure

P-2, which was addressed to the Divisional Deputy Director Rural

Development and Panchayat, Ferozepur. This letter of resignation is undated but the same was received by the Divisional Deputy Director on

16.02.2011 as can be seen from Annexure P-5. The resignation was withdrawn on 28.02.2011.

7. Counsel for the respondents, accordingly, would contend that the same was withdrawn within a period of 15 days from the date of its receipt by

Deputy Director. Otherwise also, it is noticed that the resignation apparently, was not voluntarily given. It is on the basis of understanding, which

may not stand the test of legal scrutiny. As a general principle of law, resignation before being accepted can always be withdrawn. The resignation

has to be voluntary, which apparently is not the case here. Since deeming provision regarding deemed acceptance of such resignation also had not

taken effect, no case for exercise of writ jurisdiction is made out. The writ petition is, accordingly, dismissed.