IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 16643 of 2024
Date of Decision: 31.12.2024

Ravinder Kumar

.....Petitioner

Versus

The Deputy Commissioner at Reckong Peo and Ors.

.....Respondents

Coram
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting?

For the Petitioner: Mr.Viveka Nand, Advocate.

For the respondent: Mr. Anup Rattan, Advocate General with Mr. Rajan Kahol and Mr. B.C. Verma, Additional Advocates General with Mr. Ravi Chauhan, Deputy Advocate General.

Sandeep Sharma, J. *(Oral)*

Being aggrieved and dissatisfied with order dated 15.10.2024, passed by the learned Deputy Commissioner-cum-Appellate Authority, Kinnaur, whereby appeal having been filed by the petitioner, laying therein challenge to order passed by the Authorized Officer, thereby disqualifying him from holding office of Member of the Panchayat Samiti Pooh, came to be rejected, petitioner has approached this Court in the instant proceedings filed Article 226 of the Constitution of India, praying therein to set aside aforesaid order.

2. Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Vivekanand learned counsel for the petitioner is that court below while passing

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impugned order failed to take note of the fact that petitioner herein never came to be declared as an encroacher. If it is so, there was otherwise no occasion to declare the election of the petitioner as Member of Ward of Panchayat Samiti, as detailed herein above, null and void.

3. While accepting the notice on behalf of the respondent, Mr. B.C. Verma, learned Additional Advocate General, while responding to aforesaid submissions of the learned counsel for the petitioner strenuously argued that once it stands duly established on record that petitioner herein himself applied for regularization of the encroachment allegedly done by his father on the Government land, omission, if any, on the part of the government to declare father of the petitioner as an encroacher may not be of much relevance.

4. Having heard learned counsel for the parties and perused the material available on record vis-à-vis reasoning assigned in the judgment impugned in the instant proceedings, this Court sees no reason to interfere with the same. Careful perusal of material adduced on record by the petitioner itself suggests that encroachment was done by father of the petitioner on the government land. Once such fact came to the notice of the petitioner, he himself applied for regularization of the same. No doubt, there is no order passed by the Government of Himachal Pradesh, thereby declaring father of the petitioner as an encroacher, but, as has been taken note herein above,

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filing of an application by the petitioner for regularization of the encroachment on the government land, is itself sufficient to conclude factum of encroachment done by his father on the government land, there was no requirement, if any, for the petitioner to file application for regularization. Since it has been specifically provided under Section 122(1) (c) and 175 of the Himachal Pradesh Panchayati Raj Act that a person having made encroachment upon the government land is not entitled to hold public office, no illegality can be said to have been committed by the courts below while declaring the election of the petitioner to be null and void.

5. Consequently, in view of the above, this court finds no merit in the present petition and accordingly, same is dismissed alongwith pending applications, if any.

December 31, 2024 **(Sandeep Sharma),**
Manjit **Judge**

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