

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of Decision: 5.10.2015.

(1) CWP No. 14198 of 2015

Ram Parsad and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

(2) CWP No. 14735 of 2015

Mahesh Kumar

.....Petitioner

Vs.

State of Haryana and others

....Respondents

**CORAM:- HON'BLE MR. JUSTICE SURYA KANT.
HON'BLE MR. JUSTICE P.B.BAJANTHRI.**

Present: - Mr. Jagdish Manchanda, Advocate for the petitioners
(CWP No. 14798 of 2015)

Mr. Jagjot Singh, Advocate for

Mr. Kunal Dawar, Advocate for the petitioner
(CWP No. 14735 of 2015)

Mr. Anil Mehta, DAG, Haryana

SURYA KANT, J (ORAL)

This order shall dispose of Civil Writ Petition Nos. 14198 and 14735 of 2015 as the common question of law and facts are involved in both the petitions. For brevity, the facts are being extracted from CWP No. 14198 of 2015.

The petitioners have filed a joint petition questioning the reservation of the seats of Sarpanch of their respective Gram Panchayats of villages Jainpur, Bahin, Kondal, Bhamrola Jogi, Andhop and Pahari, Tehsil Hathin, District Palwal.

Though the writ petitions can be dismissed outrightly for misjoinder of the causes of action but having regard to the comprehensive reply filed by respondents, we proceed to consider the issue on merits.

The grievance of the petitioners is against the purported non compliance of Section 9(4) of the Haryana Panchayati Raj Act, 1994 as according to them, the authorities have not rotated the posts of Sarpanch for the purpose of reservation for Scheduled Castes category amongst the villages having Scheduled Castes population. Section 9(4) reads as under: -

9(4) The offices of the Sarpanches in the Gram Panchayat in a block shall be reserved for the Scheduled Castes and Women :

Provided that the number of offices of Sarpanches reserved for the Scheduled Castes in the Block shall bear, as may be, the same proportion to the total number of such offices in the Block as the population of the Scheduled Castes in the State bears to the total population of the State :

Provided further that not less than one-third of the total number of offices of Sarpanches in the block shall be reserved for women including one-third offices of women Sarpanches from Scheduled Castes :

Provided further that the number of offices of Sarpanches reserved under this sub-section shall be rotated to different Gram Panchayats first having the largest maximum population of Scheduled Castes and secondly having the second largest maximum population of such classes and so on.

The respondent-authorities maintain that the principle of rotation has been applied but only those Gram Panchayats have been put into consideration where atleast one post of Panch is also reserved for Scheduled Castes category. It is further pointed out that the villages represented by the petitioners are amongst having maximum population of Scheduled Castes and no post of Sarpanch in these villages was reserved for Scheduled Castes in the last elections held in 2010. It is pointed out that the villages which were reserved in the year 2010 were liable to be and have been accordingly excluded from the rotation cycle.

We have heard learned counsel for the parties and gone through the records.

There is *per se* no illegality in the procedure followed by the respondents in excluding those Gram Panchayats which were reserved in the elections held in 2010. In fact, the principle of rotation can be meaningful only if the Gram Panchayats which were earlier reserved are exempted in the ensuing elections of 2015 and the benefit of reservation is extended amongst those Gram Panchayats where the posts of Sarpanch were not reserved for Scheduled Castes category in the 2010 elections. The exercise undertaken in this regard is in conformity with the legislative policy of Section 9(4) of the Act.

It, however, deserves to be mentioned that there are certain gram panchayats like Ladmakhi and Sapanki where the Scheduled Castes population is 8.34 % and 5.29% respectively i.e., much more than the population where the seats of Sarpanch have been reserved for the elections 2015. But the post of Sarpanch in these two villages were not reserved for Scheduled Caste category neither in 2010 elections or in the ensuing elections of 2015. The reasons for such exclusion are also conspicuously missing.

The respondents are thus obligated to undertake the exercise to strictly follow the principles namely (i) rule of rotation; (ii) the condition that one post of Panch must be reserved for Scheduled Castes category in that village; (iii) the maximum population of Scheduled Castes and (iv) whether the post of Sarpanch was reserved in the previous election of 2010.

Keeping these facts in view, if the post of Sarpanch of a Gram Panchayat should have been reserved for Scheduled Castes but has not been done so or where such office should not have been reserved but has been included in the reserved category, deserves to be reviewed and we order accordingly. The appropriate modifications, if need shall be carried out in the light of observations made above within a period of one week. While doing so, the reasons be assigned so that the affected villages/Gram Panchayats are made aware of the same.

Copy of this order be given dasti to learned State Counsel for
necessary action.

(SURYA KANT)
JUDGE

(P.B.BAJANTHRI)
JUDGE

5.10.2015
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