

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.17989 of 2015

Date of Decision: August 28, 2015

Krishan Pal

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE JASPAL SINGH.

Present: Mr.Madan Pal, Advocate, for the petitioner.

Ms.Kirti Singh, Deputy Advocate General, Haryana.

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1. *Whether Reporters of Local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Surya Kant, J. (Oral)

Notice of motion.

On our asking, Ms.Kirti Singh, learned Deputy Advocate General, Haryana, accepts notice on behalf of the respondents.

Let five copies of the writ petition be supplied to the State counsel during the course of day failing which this order shall be automatically recalled and the writ petition shall be deemed to have been dismissed for non-prosecution.

In view of the nature of order which we propose to pass, it is not necessary to seek any counter-reply from the respondents at this stage.

The petitioner is a resident of village Jailaf, Block Narnaul, District Mahendergarh. His grievance is against the reservation of post of Sarpanch of his village in favour of

Scheduled Caste category. In sum and substance, the petitioner alleges that as per Section 9 of the Haryana Panchayati Raj Act, 1994, the post of Sarpanch can be reserved for Scheduled Caste candidate in a village having largest population of Scheduled Castes and secondly, the second largest population of such class and so on.

The petitioner earlier came to this Court and a learned Single Judge disposed of his writ petition on 20.05.2015 (P-4) observing that in view of the supplementary Government Instructions dated 07.05.2015, remedial steps have already been taken. Those Instructions, inter-alia, provide that “the reservation for number of offices of Sarpanches shall be rotated to different Gram Panchayats first having largest maximum population of Scheduled Caste and then to the Gram Panchayat having second largest maximum population of Scheduled Castes and so on till the list is exhausted....”

The petitioner contends that since the population of Scheduled Caste category in village Jadupur in Narnaul block is more than his village Jailaf as is depicted in the information received by him under the Right to Information Act, 2005, the post of Sarpanch of village Jadupur ought to have been reserved for Scheduled Castes and not of his village.

Having heard learned counsel for the parties, it appears to us that the factual issue raised herein-above has to be resolved by the Prescribed Authority to whom the petitioner has not approached so far. The strength of the population of Scheduled Caste in a particular village is a question of fact which can be effectively gone into by the Authorities. Secondly, there appears to be yet another Government decision that in a Gram Panchayat where no post

of Panch is reserved for Scheduled Caste category, the office of Sarpanch cannot be reserved for that community. The validity of this decision is not under challenge. If such a condition has not been prescribed by the State Government, needless to say that the Authorities are obligated to re-visit the whole issue as per the Act and Rules.

We, thus, dispose of this writ petition with a direction to the Deputy Commissioner-cum-District Election Officer, Mahendergarh-respondent No.4 to look into the above-stated aspects and take an appropriate decision well before the Gram Panchayat elections are held.

Ordered accordingly.

Dasti.

[SURYA KANT]
JUDGE

August 28, 2015
mohinder

[JASPAL SINGH]
JUDGE