

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

CWP No.6720 of 2015 (O&M)
Date of Decision: 24.09.2015

Bhupinder Singh

. . . .Petitioner

Versus

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Gurnam Singh, Advocate,
for the petitioner.

Mr.Yatinder Sharma, Addl. A.G. Punjab.

RAKESH KUMAR JAIN, J.

The petitioner is a member of the Panchayat Samiti of Block Rajpura. He has challenged the election of respondent No.6 to the office of Sarpanch of Gram Panchayat, Bakshiwala, falling in Block Rajpura, which was reserved for scheduled caste candidate vide notification dated 28.5.2013, issued by the office of Deputy Commissioner, Patiala. The election was held on 3.7.2013 under the provisions of the Punjab State Election Commission Act, 1994, in which respondent No.6, belonging to the Gadaria Community, which has been declared as Backward Class by the Government of Punjab, contested the election on the basis of a certificate No.1666 dated 8.6.1998 issued to him by Tehsildar-cum-Executive Magistrate, Rajpura testifying that respondent No.6 belongs to Gadaria caste which has been declared as one of the Scheduled Caste as Vimukat

Jati by the Punjab Government vide its letter dated 6.9.1996. It is alleged that the Department of Welfare, Government of Punjab, issued another letter No.10/1/96-2SCW-1/81 dated 27.1.2000, in which the mistake has been clarified and the authorities were directed to rectify the practice being followed in the different Tehsil of the States and that respondent No.6 had allegedly used the certificate of Vimukat Jati as Scheduled Caste certificate against the latest instructions of 27.1.2000, as per which Gadaria Caste is a Backward Class.

No one appeared on behalf of respondent No.6, though he was duly served, as recorded in the order dated 17.7.2015.

The petitioner has also filed an application to place on record FIR No.46 dated 4.7.2015 registered under Section 420 of the IPC against respondent No.6, at Police Station Rajpura, District Patiala, for allegedly using the certificate of Scheduled Caste for the purpose of contesting the election and also the order dated 16.7.2015 passed by Tehsildar, Rajpura by which the certificate No.1666 dated 8.6.1998 was cancelled in view of the subsequent letter dated 27.1.2000, in which it was clarified that Vimukat Jati is a separate community and people belonging to such community are not Scheduled Caste and as such Vimukat Jati certificate cannot be used as Scheduled Caste certificate.

Respondents No.4 & 5, in their short replies, supported the case set up by the petitioner and has also alleged that the certificate issued in favour of respondent No.6 on 8.6.1998, on the basis of Government letter dated 6.9.1996 has already been cancelled.

Thus, there is no doubt that when respondent No.6 had contested the election, he belongs to a Backward Class and could not have contested the election from the seat which was reserved for the Scheduled Caste.

In view therefore, the present petition is hereby allowed and the election of respondent No.6 is set aside holding that he had no right to contest the election for the office of Sarpanch of Village Bakshiwala, Block Rajpura, District Patiala, which was reserved for Scheduled Caste as he belongs to Backward Class.

24.09.2015

Vivek

(RAKESH KUMAR JAIN)
JUDGE