

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

LPA No. 1776 of 2016 (O&M)

DATE OF DECISION : 14.09.2016

Smt. Krishana Devi

.... APPELLANT

Versus

State of Haryana and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Shashi Bharat Bhushan and
Mr. Ramesh Kumar Dhanjya, Advocates,
for the appellant.

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RAMENDRA JAIN , J.

1. In the month of January, 2016, Panchayat elections were held in the State of Haryana. Earlier thereto, in the year 2015, the State of Haryana had amended the Haryana Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act'), prescribing the minimum educational qualification for contesting the election for the post of Sarpanch and Panches. For the post of Sarpanch relating to general category, the minimum educational qualification was prescribed as passing of matriculation examination or its equivalent examination from any recognised institution/board. Accordingly, the appellant applied for the post of Sarpanch, Gram Panchayat, Kalauda Khurd, Tehsil Narwana, District Jind, which was kept open, i.e. for general category. At the time of filing her nomination papers, she had appended her

Matriculation Certificate (Annexure P-1) issued by the Central Board of Higher Education, New Delhi. Her nomination papers were accepted and ultimately, she defeated her nearer rival namely Smt. Krishna wife of Raghbir. Thereafter, the defeated candidate, Smt. Krishna, submitted a complaint dated 22.03.2016 to the SDM, Narwana, alleging that the Matriculation Certificate produced by the appellant with her nomination papers was fictitious and the board from which she passed out the matriculation examination was not recognised. Accordingly, on the basis of a preliminary inquiry conducted by the Block Development & Panchayat Officer, Narwana (respondent No.4), regarding the said allegations, the Deputy Commissioner, Jind (respondent No.3), issued a show cause notice dated 27.06.2016 (Annexure P-2) to the appellant under Section 51 of the Act. The appellant submitted reply dated 26.07.2016 (Annexure P-4) to the said notice, raising various factual and legal issues. Without waiting for the fate of the aforesaid show cause notice, she challenged the said show cause notice by filing CWP No. 16186 of 2016, which has been disposed of by the learned Single Judge vide order dated 11.08.2016.

2. Hence, the appellant has approached this court by way of instant appeal under Clause X of the Letters Patent against the aforesaid order dated 11.08.2016 passed by the learned Single Judge.

3. A perusal of the impugned order would reveal that the learned Single Judge has rightly observed that since the show cause notice dated 27.06.2016, to which a detailed reply has already been filed by the appellant, is yet to be decided by the competent authority, therefore, writ petition against the said show cause notice is not maintainable. Further,

while disposing of the writ petition, the learned Single Judge has ordered that if the competent authority passes an order against the appellant, removing her from the post of Sarpanch, said removal order shall remain in abeyance for a period of two weeks, so as to enable the appellant to challenge the same before appropriate forum, in accordance with law. Thus, the appellant will have sufficient opportunity to raise all the factual and legal issues before the competent authority deciding the show cause notice.

4. In view of the aforesaid facts and circumstances of the case, we do not find any reason to interfere with the impugned order passed by the learned Single Judge.

5. Dismissed.

**(RAMENDRA JAIN)
JUDGE**

September 14, 2016
ndj

**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No