

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

CR No.1518 of 2017

Date of decision: 02.03.2017

Neelam Devi

..Petitioner

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. D.D. Sharma, Advocate
for the petitioner.

Daya Chaudhary, J.

The present revision petition has been filed under Article 227 of the Constitution of India to challenge impugned order dated 12.01.2017 (Annexure P-3) passed by Additional Civil Judge (Senior Division)-CJM, Fatehabad, whereby, the application filed under Order 1 Rule 10 CPC by defendants No.3 and 4 has been allowed and they have been impleaded as defendant Nos.3 and 4 in the civil suit filed by the petitioner-plaintiff against show cause notice issued to him.

Briefly, the facts of the case as made out in the present revision petition are that the petitioner-plaintiff has challenged the show cause notice issued by defendant No.2 i.e., Deputy Commissioner, Fatehabad vide letter dated 01.09.2016 on the basis of enquiry report submitted by District Development and Panchayat Officer, Fatehabad, whereby, the certificate submitted by the petitioner for contesting the election was found to be fake and fictitious. The petitioner has challenged the procedure adopted by

respondent No.2 by stating that the procedure adopted was contrary to law and without jurisdiction. In the civil suit, the petitioner-plaintiff has arrayed State of Haryana through Collector, Fatehabad and Deputy Commissioner, Fatehabad as defendants. During pendency of the suit, defendants No.3 and 4 filed an application under Order 1 Rule 10 CPC for impleading them as party on the ground that they being necessary party are going to be effected by the decision and they will suffer irreparable loss in case, the suit is decided in favour of the petitioner-plaintiff. Reply to the application was filed by the petitioner-plaintiff by raising certain grounds and ultimately, vide order dated 12.01.2017, the application was allowed and defendants No.3 and 4 were allowed to be impleaded as party, which has been challenged by way of filing the present revision petition.

Learned counsel for the petitioner submits that the petitioner has challenged only the show cause notice issued by respondent No.2 and nothing has been sought against defendants No.3 and 4. Learned counsel also submits that no prejudice is going to be caused to defendants No.3 and 4 and they have no right to interfere in the proceedings as the matter is between the petitioner and respondent No.2 only.

Heard arguments of learned counsel for the petitioner and have also perused the impugned order as well as other documents available on the file.

The facts relating to filing of suit by the petitioner-plaintiff; filing of application under Order 1 Rule 10 CPC by defendants No.3 and 4 and allowing the same are not disputed. The order has been challenged on the ground that defendants No.3 and 4 were having no relevancy with the

show cause notice and they are not going to be effected as they are not necessary party in the suit.

It is not disputed that a show cause notice was issued to the petitioner-plaintiff under the provisions of Section 51(3)(C) read with Section 175(v) of the Haryana Panchayati Raj Act, 1994. An inquiry was conducted on the basis of complaint regarding fake certificate of educational qualification and a notice was issued to the petitioner to show cause as to why he should not be suspended or removed from the post of Sarpanch. Said show cause notice was challenged in the civil Suit. Defendant No.3-Smt. Mukesh lost the Panchayat Election against the petitioner-plaintiff and defendant No.4-Ashutosh filed a complaint against the plaintiff stating that he has attached the Middle School Examination of Session 2004-2005 issued by Guru Nanak Academy, Ratia with the nomination form and it was not recognized at that time and the enquiry was got conducted.

Even learned counsel for the petitioner is not able to show as to how the petitioner is going to be effected in case defendants No.3 and 4 are impleaded as party.

No doubt, no relief has been claimed against defendants No.3 and 4 but the inquiry was conducted on the basis of complaint made by defendant No.4 and defendant No.3 contested the election of Sarpanch but lost the same. In case, the suit is decreed against the petitioner then defendant No.3 is going to be effected. It cannot be said that defendants No.3 and 4 are not necessary party and they are not going to be effected in any manner. Even the interest of the petitioner is not going to be prejudiced

due to allowing of the application in any manner.

Accordingly, I do not find any reason to interfere with the impugned order and as such, the revision petition being devoid of any merit is dismissed.

02.03.2017
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	√ Yes/No
Whether Reportable	√ Yes/No