

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.17729 of 2017
Date of Decision: 10.08.2017

Rajiv

....Petitioner

Vs.

State of Haryana and others

....Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.P.K. Chugh, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J.

Respondent No.3 was elected as Sarpanch. The petitioner made a complaint that she was not 8th class pass at the time when she had filed her nomination paper and was thus not eligible to contest the election. The Deputy Commissioner, Hisar vide his order dated 12.9.2016 placed respondent No.3 under suspension. However, the said order was set aside in appeal on 20.9.2016 and the case was remanded back to the Deputy Commissioner, who again passed the order on 2.5.2017 and suspended respondent No.3. The said order was again challenged by respondent No.3 by way of appeal under Section 51(5) of the Haryana Panchayati Raj Act, 1994 [for short 'the Act']. The said appeal has now been allowed on 16.6.2017 with the following observations: -

"I have heard the counsel for the parties at length and have gone through the record carefully. The Sarpanch has taken the plea that the Punjab School Education Board has

not issued any such instructions that examination certificate issued by the private school should have been counter signed by the concerned District Education Officer. On the other hand the complainant stated that the same should have been countersigned by the concerned District Education Officer. The letter dated 16.8.2016 issued by the Assistant Secretary (Exam-I) Punjab School Education Board, Shahebjada Ajit Singh Nagar, Mohali on file did not convey this fact that examination certificate issued by the private school should be countersigned by the concerned District Education Officer, rather merely says that in the year, 1988-89, 1992-93 middle class examination were not conducted by the Punjab School Education Board. The said plea taken by the appellant should have been considered by the Deputy Commissioner, Hisar by giving the reason to this effect in the light of instructions if any issued by the Punjab School Education Board, SAS Nagar, Mohali. Therefore, the impugned suspension order is hereby set aside and the case is remanded back to the Deputy Commissioner, Hisar with a

direction to pass a fresh speaking order after assessing the genuineness of the certificate also. Deputy Commissioner may obtained the relevant instructions, as to whether certificate issued by Private Institution have to be necessarily be countersigned or a copy to this effect is to be consigned in the concerned District Education Officer. It may also be ascertained whether candidate attended the school as a regular student. The fresh order be passed after hearing the appellant and complainant within a period of two months from the date of receipt of copy of this order in accordance with the provisions of law.”

The petitioner, who was the complainant, has filed this petition to challenge the order dated 16.6.2017. He has submitted that respondent No.3 is the resident of District Hisar and could not have done her 8th class from Bathinda. It is also submitted that the certificate issued by the Janta Middle School, Bathinda to respondent No.3 is not signed by the District Education Officer, Bathinda.

I have heard learned counsel for the petitioner and perused the record.

The Appellate Court vide its order dated 16.6.2017 has remanded the case to the Deputy Commissioner to pass a fresh order after reconsidering the matter on the issue of necessity of countersigning of certificate issued by the Private Institute by the District Education Officer

and ascertaining whether respondent No.3 has attended the school as a regular student, therefore, there is no occasion for this Court to interfere in this matter especially when there is no error in the order passed by the Appellate Court.

Dismissed.

(RAKESH KUMAR JAIN)
JUDGE

10.08.2017

Vivek

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*