

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.25503 of 2017

Date of Decision: November 09, 2017

Papli

. . . . Petitioner

Vs.

State of Haryana and others

. . . .Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.M.D. Khan, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed for seeking direction to respondent No.3 to decide the representation of the petitioner dated 16.8.2017 whereby the petitioner is seeking an enquiry against respondent No.4. The petitioner has made an allegation that respondent No.4 was not duly qualified at the time when she filed her nomination form for the purpose of contesting the election for the post of Sarpanch and her certificate of 10th class pass was fake. It is not disputed that the petitioner had already filed an election petition in terms of the provisions of the Haryana Panchayati Raj Act, 1994 [for short 'the Act'] and the Rules and the said election petition is still pending. Her only prayer is that since she had made a representation to the Deputy Commissioner, Nuh (respondent No.3), therefore, he may be directed to decide the same.

I have repeatedly asked learned counsel for the petitioner, during the course of hearing, to show any provision in the Act or in the Rules under which the Deputy Commissioner is obliged to hold an enquiry

on the representation made by the petitioner but no such provision is shown except Section 51 of the Act to contend that the Director or the Deputy Commissioner can put the Sarpanch under Suspension for certain reasons. The petitioner had not filed any case for seeking suspension of respondent No.4 and the prayer made in the representation is to hold an enquiry to find out as to whether the certificate of 10th class pass submitted by respondent No.4, at the time of her election, was genuine or fake. It is well settled that in a writ of mandamus the Court is to see statutory right of the petitioner and corresponding duty on the part of the respondents for the purpose of directing them to perform their duty. Since the petitioner has failed to show her right under the Statute and the corresponding duty of the Deputy Commissioner/respondent No.3, therefore, I do not find any reason to interfere in this petition and thus the same is hereby dismissed.

November 09, 2017

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No