

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

**CWP No.4827 of 2017
Date of decision:10.03.2017**

Rajbir Singh

... Petitioner

Vs.

The State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ashish Aggarwal, Senior Advocate with
Mr. Bikram Chaudhary Advocate
for the petitioner.

Mr. Abhilaksh Grover, Advocate
for respondent No.3/caveator.

AMIT RAWAL J. (Oral)

The petitioner is aggrieved of the impugned orders dated 28.10.2016 (Annexure P-9) and 15.02.2017 (Annexure P-10), whereby, he in view of the provisions of Section 51(1)(b) of the Haryana Panchayati Raj Act, 1994 (hereinafter referred to as “1994 Act”), has been suspended.

Mr. Ashish Aggarwal, learned Senior Counsel assisted by Mr. Bikram Chaudhary, Advocate appearing on behalf of the petitioner submits that petitioner was appointed as a Sarpanch of the Gram Panchayat, Khedar in the elections held on 17.01.2016 and respondent No.3 was his

nearest rival. He had availed the remedy by challenging the election petition which was ultimately dismissed as withdrawn. All the nomination papers were verified including 8th standard certificate as the petitioner belongs to SC category, whereas, as per the amended provisions of Haryana Panchayati Raj Election Rules, a candidate belonging to the reserved category must possess the qualification of middle class in order to contest the election. The petitioner is stated to have passed 8th standard from Janta Middle School, Bhatinda. A preliminary enquiry on the basis of complaint made by respondent No.3 was conducted by two principles which fact is evident from Annexure P-12, whereby, on the basis of enquiry, they intimated the District Education Officer, Bhatinda and contacted the Headmaster of the School, who informed that petitioner-Rajbir Singh son of Tuti Ram had passed 8th class from Janta Middle School in the year 1988-89 with Roll No.P-822 and certificate dated 06.04.1989 was thoroughly enquired. The Headmaster has only shown the result register and no other record was available in the school. Resultantly, it was submitted that owing to non-availability of the entire record of middle examination, certificate has been issued, therefore, certificate was not correct. On the basis of the aforementioned preliminary enquiry, the petitioner had been suspended by issuing a show-cause-notice which was duly replied but all the pleas have not been taken into consideration and the appeal preferred did not yield any result.

He has also drawn the attention of this Court to the Admission

and result of 8th Class (Annexure P-14), where the name of the petitioner is figuring at serial no.22 and his date of birth has been reflected as 15.02.1970. He also submits that though while dismissing the appeal, the Additional Secretary, Panchayat has directed the Deputy Commissioner for concluding the enquiry within a period of two months which would be expiring on 14.04.2017.

This Court, on 09.03.2017 had issued notice of motion and Mr. Abhilaksh Grover, Advocate accepted notice on behalf of respondent No.3/caveator, who in view of the aforesaid order and paucity of time, has shown to this Court, vernacular copy of the order dated 26.08.2016 and various other orders, whereby in many cases, Sarpanches having obtained the certificates from the same very school. Even the anticipatory bail in Crl.Misc.No.M-23161 of 2016 titled as Rajbala vs. State of Haryana, vide order dated 24.08.2016, had been declined by this Court.

He has also drawn the attention of this Court to the certificate purported to have been issued to the petitioner from K.D. Shastri High School, Mori Gate Hisar with regard to 8th standard. He further submits that the petitioner is thus trying his best to obtain the certificate without even clearing 3rd and 4th standard, much less getting any educational qualification in any of the schools. It is just an eye wash. All these documents would be proved in the enquiry report, therefore, nothing would happen in case suspension order is ordered to be kept intact.

I have heard learned counsel for the parties and appraised the

paper book.

No doubt, the Court has to very circumspect in the matters which result into suspension of a Sarpanch but all the documents as pointed out/referred to by Mr. Aggarwal would be seen by the enquiry officer. It is conceded position on record that in an appeal preferred before the Additional Secretary, the order of the Deputy Commissioner was stayed, in essence, the petitioner had been discharging the duties of a Sarpanch.

I am of the view that veracity and authenticity of document would be disputed question of fact and law, particularly the record of the DEO which has purportedly been demolished in view of the order dated 30.06.2016 of the District Education Officer owing to “*Swachh Bharat Mission*”.

Be that as it may, I would not be commenting upon the merits and de-merits of the matter as it would be the domain of enquiry officer to decide independently on the basis of the record as to whether the petitioner or the allegations of the complainant are found to be correct or not but till then, I deem it appropriate to keep the order of suspension and impugned order in abeyance.

Both the parties shall be at liberty to challenge the outcome of the enquiry.

Writ petition stands disposed of.

This Court is sanguine of the fact that the direction given by Additional Chief Secretary to the SDM shall be regarded and adhered to in

letter and spirit. Keeping in view the sensitivity of the matter, I also direct the DC/SDM whosoever is conducting the enquiry to conclude the same within time framed already granted.

(AMIT RAWAL)
JUDGE

March 10, 2017
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No