

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

LPA No.936 of 2017 (O&M)

Date of Decision: 09.08.2018

Krishan Dev

...Appellant

VS.

State of Haryana & Ors.

... Respondents

**Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Sudip Ahluwalia**

Present: Mr. Surinder Kumar Daaria, Advocate for the appellant

Mr. Ravi Dutt Sharma, DAG Haryana

Mr. Suresh Kumar Kaushik, Advocate for respondent No.4

SURYA KANT J. (Oral)

(1) The instant Letters Patent Appeal assails the order dated 11.05.2017 whereby learned Single Judge has relegated the appellant to approach the Director, Rural Development and Panchayats Department, Haryana for challenging the orders dated 20.09.2016 and 31.03.2017 (P3 & P6), respectively whereby the appellant was asked to return the Identity Card issued to him as a Panch of Gram Panchayat, village Kankrola, District Gurugram.

(2) Having heard learned counsel for the parties, we are satisfied that the order passed by learned Single Judge is liable to be set aside and the writ petition filed by the appellant deserves to be decided afresh on merits. Suffice it to mention that the implication of impugned communication dated 20.09.2016 and the order dated 31.03.2017 (P6) amount to setting aside the election of the appellant as a Panch of the Gram Panchayat, to which he was statedly elected with majority votes. The question which fell for consideration of learned Single Judge was thus whether the election of a

duly elected Panch or Sarpanch can be set aside by way of an administrative order or such a power vests exclusively in the Election Tribunal constituted under Section 176 of the Haryana Panchayati Raj Act, 1994?

(3) Without expressing any views on merits, the appeal is allowed in part; the impugned orders (P3 & P6) are set aside and the matter is remitted to the learned Single Judge for afresh adjudication. The parties shall be at liberty to raise their respective contentions before the learned Single Judge. The interim order dated 31.05.2017 shall continue to operate till the writ petition is decided on merits. We request learned Single Judge to decide the writ petition preferably within three months from the date of receipt of certified copy of this order.

(Surya Kant)
Judge

09.08.2018
vishal shonkar

(Sudip Ahluwalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No