

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 7141 of 2019 (O&M)
Date of Decision: April 26, 2019

Sanjeeda

.....Petitioner

versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY.
HON'BLE MR. JUSTICE SUDHIR MITTAL.**

Present: Mr. Partap Singh, Advocate
for the petitioner

Mr. Rajesh K. Sheoran, Additional Advocate General, Haryana

Mr. Akshay Jindal, Advocate
for the caveator - respondent

SUDHIR MITTAL, J.

Elections to the post of Sarpanch of Gram Panchayat village Jamalgarh Tehsil and Block Punhana, District Mewat was held on 10.01.2016. Sanjeeda wife of Imdad (writ petitioner) was declared elected as Sarpanch with a margin of 167 votes. Farjeena wife of Munfed (respondent No. 2) was also candidate for the aforementioned post. She challenged the election of the petitioner vide an election petition instituted on 06.02.2016 and the same was allowed vide the impugned judgment dated 27.02.2019 (Annexure P-7). Learned Civil Judge (Junior Division), Ferozepur Jhirka held the petitioner disqualified from holding the post of Sarpanch as she did not possess the minimum educational qualification of middle pass and consequently set aside her election. Directions were issued for conducting a fresh election. Aggrieved by this judgment, the present writ petition was filed by

the elected candidate.

2. The Gram Sachiv, B.D.P.O. Office, Punhana appeared as PW4 and proved on record the nomination form of the petitioner as Ex. PW4/1. Alongwith the said nomination form was annexed a copy of the mark sheet of Class VIII of the petitioner and the student registration number mentioned thereupon was 1005. An attested copy of the said document was proved by him as Ex. PW4/2 and the mark sheet annexed therewith mentioned the student registration number of the petitioner as 1006. The registration number 1005 had been found to be scored off as the number 1006 had been written. Thus, the mark sheet annexed with the original nomination form did not bear any cutting whereas the one annexed with the attested copy thereof bears a cutting.

3. To prove her case, respondent No. 1 examined Ash Mohd. as PW1, herself as PW2, Mohd. Tariq Aziz as PW3 and Abbas, Gram Sachiv, B.D.P.O Office, Punhana as PW4. The documents proved on record by her are Ex. P1 (information dated 20.01.2016 received under the Right to Information Act, 2005), Ex. P2 (Application Form of remand), Ex. P3 (Copy of FIR No. 59 dated 04.04.2015), Ex. PW4/1 and Ex. PW4/2 (original copy of nomination form of elected candidate and attested copy thereof). The elected candidate examined Aijaz as DW1, Sajid as DW2, Devender as DW3, Imdad as DW4, Suleman as DW5, Dinesh Kumar as DW6, Bhagwan Dass, Clerk, District Basic Education Officer, Mathura as DW7 and herself as DW8. The documents Ex. D1 to Ex. DW7/A and Mark 'A' and Mark 'B' were exhibited by her.

4. As per stand of the petitioner (elected candidate), she passed her class VIII examination from Vishava Bharti Vidhya Mandir, Pratap Nagar, Yamuna Park, Mathura (U.P.). During her cross-examination as DW8 she stated that she was born in village Kotlaka where she resided till her marriage and after her marriage she

resided at village Jamalgarh. Other admitted facts are that her school leaving certificate is dated 22.07.2015 whereas the year of passing Class VIII examination is 1995-96. The candidates for the post of Sarpanch submitted their nominations between the period 23.12.2015 to 30.12.2015 and the election was held on 10.01.2016. The election petition came to be filed on 06.02.2016. The document Annexure P-1 dated 20.01.2016 received from the office of Principal, Vishava Bharti Vidhya Mandir, Pratap Nagar, Yamuna Park, Mathura states that there is no student entered against registration No. 1005. The school leaving certificate dated 22.07.2015 produced by the writ petitioner before the Election Tribunal is Ex. D1. The student registration number mentioned therein is 1005 but the same has been scored off to read 1006. The figure 1006 has been initialed by the Principal and the date under the initials is 04.02.2016. The Principal of the school namely Dinesh Kumar (DW6) admitted in his cross-examination that the date mentioned under his initials is dated 04.02.2016 and that the signatures of the District Basic Education Officer, Mathura and Regional Education Officer were obtained thereafter. She could not answer questions such as which was the seventh month of the year or the ninth month of the year. She admitted that she had never studied English language. She could not count the number of alphabets in the word English and could not state her percentage in Class VIII. The number of days in the month of February were stated to be 30 by her. The arithmetic tables could not be recited by her. She was also unable to answer a large number of other simple questions.

5. From the aforementioned facts, it is evident that the petitioner (elected candidate) applied for her school leaving certificate for the first time on 22.07.2015 i.e. 10 years after she allegedly passed Class VIII. Her school leaving certificate attached with Ex. PW4/1 (original nomination form) filed between period 23.12.2015 to 30.12.2015 mentions student registration number as 1005. After the

elections were conducted on 10.01.2016 and the petitioner was declared elected, respondent No. 2 (election petitioner) sought information from the school of the petitioner and vide information dated 20.01.2016 (Ex. P1) she was informed that no student in the school was admitted against registration No. 1005. This document has been admitted by the school Principal while appearing as DW6. The school leaving certificate Ex. D1 bears cutting initialed by the Head Master of the school dated 04.02.2016, which is after the election was held. The attested copy of the nomination form Ex. PW-4/2 also bears a cutting and the student registration No. 1005 has been scored off to read 1006. It is, thus, crystal clear that the school record has been manipulated by the writ petitioner after realizing that no student was admitted against registration No. 1005. This conclusion stands reinforced by evidence of Bhagwan Dass, Clerk, District Basic Education Officer, Mathura (DW7) who admitted that name of the writ petitioner was entered at Serial No. 4093 in his record and the same was in a different handwriting than the entries made at Serial Nos. 4090, 4091, 4092. Further, the entry at Serial No. 4093 did not bear the signature of any officer and that the seal of the District Basic Education Officer and Regional Education Officer were affixed on the School Leaving Certificate Ex. D1 on 28.01.2016, which is much after the date of the election. It is, thus, obvious that the writ petitioner has manipulated the record to show that she possess the requisite educational qualification.

6. Thus, the conclusion reached by the Election Tribunal is based on a proper appreciation of the evidence on record. The same is neither perverse nor can it be said to suffer from infirmity of non-application of mind. A writ in the nature of certiorari can only be issued if the order impugned can be classified as perverse. We were only required to examine the impugned judgment in the said perspective. Only to satisfy ourselves, we have also gone through the evidence on record and we

find that no other view could be taken except the one which has been taken by the learned Election Tribunal.

7. The writ petition has no merit and is accordingly dismissed.

(DAYA CHAUDHARY)
JUDGE

(SUDHIR MITTAL)
JUDGE

April 26, 2019
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No