

C.W.P. No. 11549 of 2018

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 11549 of 2018

DATE OF DECISION:08.05.2019

Seema Rani

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

Present:- Mr. Sushil Bhardwaj, Advocate
for the petitioner.

Mr. Arun Beniwal, DAG, Haryana.

Mr. S.P. Arora, Advocate
for respondent No.2.

Mr. Sachin Gupta, Advocate
for respondent No.6.

DAYA CHAUDHARY, J.

Petitioner-Seema Rani has approached this Court by way of filing the present petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of impugned notice dated 3.5.2018 (Annexure P-5), whereby, nomination of the petitioner for the post of Municipal Councilor has been rejected. A further prayer has been made for issuing direction to the respondents to allow the petitioner to participate in the election of Municipal Councilor from Ward No. 9, Nilokheri, which is scheduled to be held on 13.5.2018 subject to outcome of the present petition.

Briefly, the facts of the case as made out in the present petition are that State Election Commission, Haryana vide notification dated

20.4.2018 notified the elections of 18 Municipal Committees in State of Haryana. The petitioner filed her nomination form from ward No. 9, Nilokheri under BC category. The scrutiny of the nomination papers was done by the Returning Officer on 3.5.2018 but the nomination paper of the petitioner was rejected. She contacted the Returning Officer to know the reason. It was orally stated that her proposer did not possess the requisite qualification as he was only 8th pass, whereas, being a male member he should have been matriculate. Vide notice dated 3.5.2018, nomination papers of four candidates, which were not found in accordance with Rule 21 (3) of the Haryana Municipal Election Rules, 1978 (hereinafter referred to as 'the Rules, 1978'), were rejected.

Learned counsel for the petitioner contends that the petitioner is resident of ward No. 9 and is having voter card of same ward. She has passed middle standard and was eligible to contest the elections of Municipal Committee. Learned counsel further contends that ward No. 9 was reserved for BC category and petitioner belongs to Mehra caste and she filed her nomination in BC category. The nomination form was complete in all aspects and was submitted before the Assistant Returning Officer, Municipal Committee, Nilokheri, which was duly acknowledged vide receipt dated 1.5.2018. She was proposed by her son, namely, Rajan, who is also middle pass and voter of ward No. 9. Learned counsel also submits that scrutiny of the nomination papers was done by the Returning Officer on 3.5.2018 and her nomination paper was rejected as per Rule 21 (3) of the Rules, 1978, wherein, nothing regarding qualification of the proposer has been mentioned. The only requirement is that the proposer must be a voter of that ward. The proposer of the petitioner is his son and is a voter from

the same ward. The qualification of the proposer has nothing to do with proposer of candidate. It is also the argument of learned counsel that rejection of nomination on the ground that proposer being male must be matriculate is totally illegal and arbitrary. The qualification of the proposer was not asked at the time of filing nomination form and there was no reason to reject the same on the ground that proposer did not have the qualification as required to contest the election of the Committee. At the end, learned counsel for the petitioner submits that right of the petitioner to contest the election is constitutional and same cannot be taken away without assigning any reason.

Learned counsel for the respondents submit that one Neeru Sharma has also approached this Court by way of filing C.W.P. No. 11912 of 2018, which was dismissed by this Court vide order dated 14.2.2019. Learned counsel further submit that on 30.7.2018, a proposal has been submitted by the State Election Commission, Haryana to the Principal Secretary to Government of Haryana, Urban Local Bodies Department, Chandigarh for removal of the condition laid down under Rule 21 (3) of the Rules, 1978 stating therein that the condition of disqualification inserted under Article 21 (3) of the Rules, 1978 is not justified in public interest and the same may be removed from the Rules, 1978 in the interest of general public.

We have heard the arguments advanced by learned counsel for the parties and have also gone through the impugned order and other documents available on file.

The facts of the case are not disputed. It has also not been disputed that one similarly situated person, namely, Neeru Sharma filed

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C.W.P. No. 11912 of 2018, which was dismissed by this Court on 14.2.2019. On 30.7.2018, a proposal has been submitted by the State Election Commission, Haryana to the Principal Secretary to Government of Haryana, Urban Local Bodies Department, Chandigarh for removal of the condition laid down under Rule 21 (3) of the Rules, 1978 stating therein that the condition of disqualification inserted under Article 21 (3) of Rules, 1978 is not justified in the public interest

In view of the above, there is no merit in the arguments advanced by learned counsel for the petitioner and the present petition being devoid of any merit is hereby dismissed. However, State of Haryana is directed to consider the proposal sent by State Election Commission, Haryana.

(DAYA CHAUDHARY)
JUDGE

08 May, 2019
pooja

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes