

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

CWP No.32677 of 2018

Date of decision : 09.05.2019

Pritam Singh

.....Petitioner

Versus

State of Punjab and others

...Respondents

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

Present : Mr. R. K. Garg, Advocate for the petitioner.
Mr. I.P.S. Doabia, Addl. A. G., Punjab.

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DAYA CHAUDHARY, J.

Petitioner-Pritam Singh has approached this Court by way of filing the present writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of order dated 31.10.2018 passed by the Deputy Commissioner, Gurdaspur while taking action on the representation submitted by the petitioner as per directions issued by this Court in CWP No.22590 of 2018.

The relevant portion of order passed in CWP No.22590 of 2018, is reproduced as under : -

“Petitioner prays for reservation of seat of Sarpanch for Scheduled Caste. In this regard, he has made a representation (Annexure P-1).

After hearing learned counsel for the petitioner and without commenting on the merits of the case, we dispose of the instant petition with a direction to the respondents to consider and decide

representation (Annexure P-1) by passing a speaking order, as expeditiously as possible.

Disposed of.”

In pursuance of said directions issued on 06.09.2018, the claim of the petitioner was considered and following order was passed:-

“Sh.Pritam Singh S/o Bachan Singh vide his representation / application (Annexure P-1) which was sent to the Deputy Commissioner and in which he has made the request that the seat of sarpanch of Gram Panchayat Dalam, Block Batala, Tehsil and Distt. Gurdaspur be reserved for SC (woman) and be notified and the election be held. In this regard, he was summoned to produce his evidence vide letter No.2834-35 dated 22.10.2018 of this. On 22.10.2018 Sh. Pritam Singh came present and he was made to know that according to the office record the seat of the sarpanch of Gram Panchayat Dalam was fixed for SC in the year 2003, for SC woman in 2008, and for the year 2013 seat was reserved for the General. The reservation for the seats of Sarpanch for the year 2018, will be done according to the instructions issued by the Govt.

In this way, regarding the application/ representation Annexure P-1 of the applicant and Civil Writ Petition No.22590 of 2018, the reservation for the seats of the Sarpanches will be done according to the instructions issued by the Govt. In this way, the application Annexure P-1 of the applicant should be taken as decided.

*Sd/- Deputy Commissioner,
Gurdaspur
Dt. 31.10.18.”*

Learned counsel for the petitioner submits that totally a non-speaking order has been passed and nothing has been said on merits. The contentions of the petitioner as made in the writ petition that Scheduled Caste population of village Dalam is about 40% of the total population and

seat of Sarpanch is being reserved for General category for the last three elections *i.e.* from 2003-2018 and no chance has been given to Scheduled Caste, which is contrary to mandate of Constitution as well as Punjab Panchayati Raj Act, 1994 and the Rules framed thereunder have not been taken into consideration. Learned counsel further submits that wrong facts have been mentioned stating that seat of Sarpanch was reserved in the year 2008 for SC Women, whereas Sukhbir Kaur was elected from General category. Learned counsel also submits that order was passed on 31.10.2018, whereas the hearing was done on 05.11.2018. At the end, learned counsel for the petitioner submits that the petitioner would be satisfied in case, the respondents are directed to pass a detailed order by considering his averments made in the representation.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner and submits that the present petition has become infructuous as the elections had already taken place and no further action is required to be taken.

Heard arguments of learned counsel for the parties and we have also perused the impugned order dated 31.10.2018 as well as other documents available on the file.

Facts are not disputed as prayer made in the present petition is that post of Sarpanch should be given to SC candidate as 40% of the population is of reserved category. It is also not disputed that a detailed representation was made and order was passed in view of directions issued in the writ petition filed by the petitioner.

On perusal of impugned order dated 31.10.2018, it appears that totally a non-speaking order has been passed and the facts and the reasons as mentioned in representation dated 24.07.2018 have not been considered. It has simply been mentioned in order dated 31.10.2018 that post of Sarpanch was meant for SC in the year 2003 and it was for SC Women in the year 2008 and for General category in the year 2018. At the end it has been mentioned that reservation of seat of Sarpanch in the year 2018 will be done in accordance with the instructions issued by the State Government. Meaning thereby, nothing has been said as to whether the post of Sarpanch during election of 2018 was meant for which category. The impugned order passed by the respondent authorities is totally non-speaking and without any application of mind. The authority is required to pass a reasoned order by considering the contentions made in the writ petition. The insistence on recording of reasons is necessary to fulfil the purpose of principles of natural justice as justice must not only be done but it must also appear to be done and to meet out the grounds as mentioned in the representation as well. The reasons recorded should be cogent, clear and succinct. The requirement to record reasons emanates from the doctrine of fairness in decision making. Said requirement is virtually a component of human rights. Moreover, it should be in the interest of justice, equity and fair play.

Accordingly, in view of the facts as mentioned above, the present writ petition is allowed and impugned order dated 31.10.2018 is hereby set-aside. However, Deputy Commissioner, Gurdaspur is directed to reconsider the representation dated 24.07.2018 afresh and pass necessary

orders in accordance with law and relevant rules/regulations/instructions.
The necessary exercise be done within a period of two months from the date of receipt of certified copy of this order. In case, the presence of petitioner is required, he be informed in writing.

**(DAYA CHAUDHARY)
JUDGE**

**09.05.2019
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**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes