

***IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.***

CWP No.133 of 2020

Date of Decision: 08.01.2020

Sudesh

....Petitioner

Versus

State of Haryana and others

....Respondents

***CORAM :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA***

Present:- Mr. Sukhvinder Singh Nara, Advocate
for the petitioner.

Mr. B.R. Mahajan, Advocate General, Haryana
with Mr. Surender Singh Pannu, D.A.G., Haryana.

Mr. A.S. Shera, Advocate
for respondent No.2.

DAYA CHAUDHARY, J.

General Panchayat Elections were held in the State of Haryana in the month of January 2016. For Zila Parishad, total 18 members were elected from different wards of Zila Parishad, Yamunanagar. Ward No.8 was reserved for Scheduled Caste Women. One Smt. Renu Bala was elected as member from said Ward. Thereafter, she was elected as a President of Zila Parishad, Yamunanagar. She contested the election of MLA from Sadhaura Assembly Constituency in the month of October, 2019. The seat of member from Ward No.8 as well as President of Zila Parishad had fallen vacant. The Vice President of Zila Parishad, Yamunanagar was appointed as officiating President of Zila Parishad. Vide letter dated 27.12.2019, the

Assistant Election Commissioner, Haryana directed the Deputy Commissioner-cum-District Election Officer (P), Yamunanagar to conduct the election of President, Zila Parishad, Yamunanagar on 10.01.2020.

Said letter dated 27.12.2019 has been challenged by petitioner-Sudesh on the ground that Ward No.8 had fallen vacant and being candidate belonging to Scheduled Caste, she is keen to contest election from that Ward. Instead of filling that seat by conducting fresh election. She has a statutory right to contest election as she has legitimate expectation to become the President of Zila Parishad, in case, she is elected as a Member from said Ward.

Learned counsel for the petitioner submits that the act of the respondents in issuing impugned letter is not only unfair but unreasonable as election of the President of Zila Parishad cannot be notified without conducting election of the Member from Ward No.8. It is a case of political injustice to the petitioner. As per Rule 79 of the Haryana Panchayati Raj Election Rules, 1994 (here-in-after referred to as 'the Rules, 1994), it is mandatory to fill up the casual vacancy of Member and the President of the Zila Parishad. The impugned letter has been issued just to elect the President of Zila Parishad of their own choice. Learned counsel for the petitioner also submits that in absence of one member from Ward No.8, the Constitution of Zila Parishad is not complete and without election of member from said Ward, no President can be elected.

Mr. B.R. Mahajan, learned Advocate General, Haryana, submits that the petitioner has no *locus standi* to file this petition as no cause of action has arisen to her to challenge the impugned letter. There is no mandatory provision under the Act as well as the Rule to fill up the post

first of the member for conducting election of the President of Zila Parishad as the President is to be elected by the members from different wards and moreover the period of six months for conducting election has not expired. He further submits that next election is likely to be held and till the expiry of period of six months, it cannot be said that the conduct of respondent authorities is contrary to any Rule or provision.

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

The number of Wards; election of members from Wards as well as President of Zila Parishad from elected members are not disputed. It is also not disputed that due to resignation of member from Ward No.8 and President of Zila Parishad, both the seats of member from Ward No.8 and President have fallen vacant. The President of Zila Parishad is elected by the members of different Wards. No doubt, presently the Vice President is officiating as President, Zila Parishad as President has resigned. The President is to be elected out of total members elected from different Wards. Learned counsel for the petitioner has not been able to show any Rule/Provision or any case law that in case of falling seat of President vacant or Member of Zila Parishad, no election of President can take place. The Constitution of Zila Parishad has already taken place as the Member elected from Ward No.8 had earlier been appointed as President of Zila Parishad. On becoming member of Legislative Assembly, the candidate elected from Ward No.8 as President of Zila Parishad had resigned and said seat had fallen vacant. The period of six months is for contesting election from the date of falling the seat vacant.

As per provisions of Section 123 of the Haryana Panchayati Raj Act, 1994 (here-in-after referred to as 'the Act, 1994), the term of the office of President and Vice-President of a Zila Parishad is five years unless they are removed or seat has fallen vacant for any other reason like resignation. In such a situation, the new President or Vice President, as the case may be, is elected by the members of Zila Parishad.

As per provisions of Section 121 of the Act, 1994, the President and the Vice-President is elected by the members of Zila Parishad in the manner as prescribed under Section 117 of the Act, 1994.

For composition of Zila Parishad, elected members elect President. President and Vice-President are elected by and amongst the elected Members of the Zila Parishad. All ex-officio members of the Zila Parishad have right to vote in the meetings of the Zila Parishad except for election and removal of the President or the Vice-President. As per *proviso* added to Section 118 of the Act, 1994, the members, who are two-third or more of the total strength, are competent/eligible to elect as President/Vice President of the *Zila Parishad*.

In the present case, vide impugned letter dated 27.12.2019, the Assistant State Election Commissioner, Haryana has written to the Deputy Commissioner-cum-District Election Officer (P), Yamuna Nagar to conduct the election of President, Zila Parishad, Yamuna Nagar by the prescribed authority i.e the Deputy Commissioner or any other officer authorized by him under Rule 77 of the Rules, 1994. It has also been mentioned in the letter that in case there is no quorum at the first meeting, the presiding authority shall adjourn the meeting for any other day.

Accordingly, in view of facts as mentioned above and the

reasons recorded therein, we find no reason to interfere with the impugned letter and by holding that the petitioner has no *locus standi* to file the present petition as it cannot be said that any right of the petitioner has been effected in any manner, the present petition, being devoid of any merit, is hereby dismissed.

(DAYA CHAUDHARY)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

08.01.2020
gurpreet

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No