

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No. 268 of 2020 (O&M)

Date of decision: 02.03.2020

Sonil

... Appellant

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Balraj Gujjar, Advocate,
for the appellant.

RAVI SHANKER JHA, CHIEF JUSTICE (Oral)

This appeal has been filed by the appellant being aggrieved by an order dated 13.2.2020, passed by the learned Single Judge, dismissing the writ petition.

From a perusal of the records, it is evident that the appellant was initially elected as Sarpanch of Gram Panchayat of village Somain, Tehsil Tohana, District Fatehabad, but she was removed from the said post vide order dated 28.7.2017, passed by the Deputy Commissioner, Fatehabad. The appeal filed by her against the said order was also dismissed by the Principal Secretary to Government of Haryana, Development and Panchayats Department, Haryana, on 11.1.2018. The appellant filed a writ petition before this Court against the aforesaid orders on 20.1.2018, and obtained interim orders on 23.1.2018. However, subsequently, the State Election Commission, Haryana, filed an application seeking vacation of stay,

bringing to the notice of the Court that after removal of the appellant-petitioner, the State Election Commission had already notified the election for the post of Sarpanch on 11.1.2018. Further, as per the election schedule, nomination papers were to be presented between 18.1.2018 to 24.1.2018, but the appellant, suppressing the aforesaid facts, filed the writ petition and obtained interim orders. The appellant, in reply, submitted that she had no knowledge of the fact that the necessary election notification had since been issued by the State Election Commission and the election process was in motion, for she was at Chandigarh for the purpose of filing a writ petition.

The learned Single Judge has taken all these facts into consideration and also that appellant-petitioner, who was a Sarpanch of the village, could not be believed to state that she had no knowledge or information qua the notification dated 11.1.2018, prior to filing of the writ petition. The learned Single Judge taking note of the fact that suppression of this material fact affected the issue of maintainability of the petition, in the wake of the decision of the Supreme Court in **K.D. Sharma Vs. SAIL, (2008) 12 SCC 481**, and dismissed the writ petition.

Learned counsel appearing for the appellant submits that, as the petitioner-appellant was unaware of the issuance of notification dated 11.1.2018, the said fact could not be brought to the notice of the Court. It is submitted that even otherwise, the election notification was issued to fill up a post that had become vacant subsequently, and in such circumstances, it is not a material fact.

Having heard learned counsel for the appellant, we are of the considered opinion that election to the post of Sarpanch is conducted by the State Election Commission, pursuant to the provisions of Article 243-O of

the Constitution of India, and interference by the Court in the election matters is barred under Article 243-O(b) of the Constitution. Thus, the issuance of election notification was a material fact, which ought to have been brought to the notice of the Court by the petitioner-appellant. We are in full agreement with the learned Single Judge, and affirm the findings recorded by him that it is not possible to believe that the appellant had no knowledge or information that the post from which she had been removed, had again been notified for election on 11.1.2018, prior to filing of the writ petition by her. In the circumstances, we do not find any illegality or infirmity in the impugned order passed by the learned Single Judge. Consequently, the appeal is dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

March 02, 2020
AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: NO