

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

CWP-7344-2020

Date of Decision:14.05.2020

Kuldeep Singh

....Petitioner

Vs.

The State of Haryana and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE JASWANT SINGH**

Present: - Mr. Madan Sandhu, Advocate, for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

Case taken up through Video Conferencing.

The petitioner has prayed for the issuance of a writ petition in the nature of *certiorari* to quash the order dated 28.01.2020 (Annexure P-2) passed by respondent no.2.

In brief, the petitioner was elected as a Sarpanch of village Sundana. A complaint was filed against him that he has contested the election by submitting fake and forged documents. The said complaint was considered by the Deputy Commissioner, Rohtak and after giving an opportunity of hearing to the petitioner, rejected the complaint on the ground that in another case, the Addl. Civil Judge (Junior Division), Shahbad had held vide his judgment and decree dated 09.01.2017 that the matriculation certificate, similarly obtained by the petitioner, was valid. The said order of the Deputy Commissioner dated 31.07.2017 was challenged by the complainant by way of an appeal under Section 51(5) of the Haryana Panchayati Raj Act, 1994, which has been allowed

by the Principal Secretary to Government of Haryana, Development and Panchayats Department, Haryana, vide his order dated 28.01.2020 by observing that the order passed by the Addl. Civil Judge (Junior Division), Shahbad in the case of someone else. shall not be treated as a binding force and, thus, after setting aside the order of the Deputy Commissioner dated 31.07.2017, remanded the matter back to him to pass a fresh speaking order on the basis of the evidence available on record.

The only grievance of the petitioner is that the observations made by the Appellate Authority that *“there is no justification to rely upon an order of Civil Court in another case, as it has no finding force”* is patently erroneous because the said decision of the Civil Judge, in which he has held that the matriculation certificate issued by the same institution in favour of someone else, is a valid certificate, cannot be brushed aside even as a piece of evidence.

At this stage, Mr. Ankur Mittal, Addl. A.G., Haryana accepts notice on behalf of respondent nos.1 to 3 and concedes that this observation has to be ignored because the decision of the Civil Court in holding that the certificate issued by the same institute to someone else is valid would definitely be a piece of evidence even if not a conclusive evidence.

Thus, keeping in view all the aforesaid facts and circumstances, the present writ petition is hereby disposed of with an observation that the Deputy Commissioner, Rohtak, to whom the matter has been remanded by the Appellate Authority, shall duly consider the impact of the judgment and decree dated 09.01.2017 passed by the Civil

Judge (Junior Division), Shahbad, in accordance with law, and also ask the petitioner to file an affidavit to the effect that the said decree dated 09.01.2017 has attained finality or not.

(RAKESH KUMAR JAIN)
JUDGE

14.05.2020
Vinod/Vivek*

(JASWANT SINGH)
JUDGE