

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206

CWP No.14305 of 2020 (O&M)
Date of decision: 13.01.2021

Seema @ Savita

.....Petitioner

Vs.

Principal Secretary to Government of Haryana Development and
Panchayt Department Haryana and ors.

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Vikas Behl, Sr. Advocate with
Ms. Drishtana Singh, Advocate for the petitioner.

Ms. Safia Gupta, AAG, Haryana.

Mr. Prateek Rathee, Advocate
for respondent No.4.

*(the aforesaid presence is being recorded through video
conferencing since the proceedings are being conducted in Virtual Court).*

GIRISH AGNIHOTRI, J. (Oral)

Petitioner – Smt. Seema @ Savita, stated to be aged 35 years, has filed the present writ petition *inter alia* with a prayer to quash the order dated 26.08.2020 (Annexure P-28) passed by respondent No.1 vide which a well reasoned order dated 04.03.2020 (Annexure P-1) passed by respondent No.2 has been set aside; with a further prayer for issuance of a writ of Mandamus directing respondent Nos.1 to 3 to reinstate the petitioner to the post of Sarpanch and direct them to hand over all the records of Panchayat as a Sarpanch; with a further direction to respondent No.3 to consider all the documents including evidence led by the petitioner at the time of deciding

the inquiry.

Records of the case show that this Court on 22.09.2020 passed a detailed order, which reads as under:-

“CM-9518-CWP-2020

Allowed as prayed for.

CWP-14305-2020 (O&M)

The petitioner is stated to be the elected Sarpanch of Gram Panchayat Wasariya, Block Farukh Nagar, District Gurugram. She was elected as back as in the year 2016. The controversy arose on account of certificate pertaining to educational qualification of the petitioner. The petitioner has sought to put forth a case to the effect that she is known by the name of Seema @ Savita.

The respondent(s) has projected a case to the effect that the petitioner has produced forged and fictitious educational certificates in the name of Savita.

It has been stated that the name of the petitioner prior to her marriage was Savita and after the solemnization of marriage, the name was changed to Seema. The petitioner was placed under suspension by the Deputy Commissioner in pursuance of an inquiry by Chief Vigilance Commissioner. Subsequently, the petitioner was reinstated to the post of Sarpanch by the Deputy Commissioner, Gurugram in terms of the order dated 04.03.2020 and a fresh inquiry was ordered to be initiated. The learned Appellate Authority in terms of the impugned order dated 26.08.2020 (Annexure P-28) has upheld the order as far as fresh inquiry is to be conducted but has set aside the order to the extent that the petitioner has been reinstated. The directions have also been given to complete the regular inquiry within a period of two months and take a final view in the matter by passing a detailed speaking order in accordance with the provisions of law.

Consequently, being aggrieved by the order of setting aside of reinstatement order, the petitioner has approached this Court.

Notice of motion.

Mr. Pankaj Middha, Addl. A.G.Haryana accepts notice on behalf of respondents No. 1 to 3 and Mr. Prateek Rathee, Advocate accepts notice on behalf of respondent No.4.

It has been stated on behalf of the respondent(s) that a time bound inquiry has been initiated which is likely to be concluded within a period of one month. Furthermore, the petitioner has been summoned under Sections 420/468/471 read with Section 120-B IPC by the learned Judicial Magistrate 1st Class, Gurugram in terms of order dated 27.07.2018. It has also been stated that a revision petition against the order has been dismissed.

Furthermore, learned counsel for respondent No.4 has also stated that the petitioner has concealed the fact of institution of earlier writ petition(s) challenging her suspension. However, it has been conceded that there was no challenge to the impugned order dated 26.08.2020 (Annexure P-28) at the earlier instance.

In the case in hand, the petitioner is an elected Sarpanch. Her reinstatement has been ordered by the Deputy Commissioner as she remained under suspension for a period of about more than 08 months. The petitioner was elected as back as in the year 2016. It has further been stated that the election petition challenging the election of the petitioner has been dismissed and the order of dismissal has been affirmed right upto this Court.

*Learned Senior counsel for the petitioner has placed reliance upon the Division Bench decision of this Court in **Inderjit Singh vs. State of Punjab and others**, 2013 (3) R.C.R. (Civil), 287 to argue that the long*

suspension of an elected representative cannot be termed to be in the interest of Panchayati Raj democracy.

In these set of circumstances, interim directions are issued to the effect that the operation of impugned order dated 26.08.2020 (Annexure P-28), as far as the reinstatement order has been set aside, is stayed. This order is without prejudice to any action which may be initiated against the petitioner on the culmination of inquiry which is now pending with Additional Deputy Commissioner, Gurugram, in the event findings are recorded against her.

Adjourned to 13.10.2020 for reply. ”

Thereafter on 13.10.2020, this Court had passed the following order:-

“The case has been taken up for hearing through video conferencing.

Vide order dated 26.08.2020 passed by the Principal Secretary to Government of Haryana, Development and Panchayats Department, reinstatement of the petitioner was set aside and the case was remanded to the Deputy Commissioner, Gurugram with a direction to get the regular inquiry completed within a period of two months.

Vide order dated 22.09.2020, the order dated 26.08.2020 was stayed without prejudice to any action which may be initiated against the petitioner on culmination of inquiry which is stated to be pending before the Additional Deputy Commissioner, Gurugram. Period of two months as directed by the Principal Secretary to Government of Haryana vide order dated 26.08.2020 is going to expire on 26.10.2020.

In the interest of justice, adjourned to 06.11.2020.

Interim order to continue. ”

Today on resumed hearing of the case, learned Senior counsel for

the petitioner submits that in case, the present arrangement continues till the order is passed by the Competent Authority, after the conclusion of the inquiry (i.e. the suspension order of the petitioner remains stayed), no further order would be called for in the present petition.

Learned State counsel also submits that she has instructions from the concerned officers that the inquiry is likely to be concluded and the Competent Authority would soon pass the order.

In view of the above, the present writ petition is disposed of with the directions that the interim order passed by this Court, shall continue, till the order is passed by the Competent Authority, after the conclusion of the inquiry.

Ordered accordingly.

(GIRISH AGNIHOTRI)
JUDGE

13.01.2021
 jyoti3

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