

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

CWP-23274-2022

Date of decision:- 11.10.2022

Narender Singh

....Petitioner

vs.

State of Haryana and ors.

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl.A.G, Haryana with
Mr. Saurabh Mago, AAG, Haryana

Ritu Bahri, J.

Petitioner is seeking quashing of letter dated 21.09.2022 (P-2) qua village Bharog, Block Shehzadpur District Ambala along with order dated 07.10.2022 (P-8), which are in violation of Articles 14 15 and 243-D of the Constitution of India and Rule 6 (5) of Haryana Panchayati Raj Election Rules 1994 (for short 'Rules 1994').

A bare perusal of order dated 07.10.2022 (P-8) shows that petitioner had earlier filed CWP No. 23196-2022 for setting aside letter dated 21.09.2022 qua village Bharog, Block Shehzadpur, District Ambala. In this petition, learned State counsel on instructions from Sh. Ranveer Singh Sodhi, Deputy Director (Legal) Development and Panchayat Department stated that petitioner be directed to appear before respondent No. 3 and his prayer will be considered immediately by respondent No. 3 by passing a speaking order. Thus, the petition was disposed of on 06.10.2022 and the petitioner was directed to appear before the concerned authority at

In compliance of the above order, the petitioner along with his counsel Balbir Kumar Saini appeared and stated that there are total 69 Panchayats in Shahjampur Block and out of these 20 Gram Panchayats are reserved for Scheduled Castes. Out of the remaining 49 Gram Panchayats, 18 have maximum B.C population.

The grievance of the petitioner before this Court is that as per notification dated 08.04.2021, Rule 6 (5) provides that the seats for Sarpanches in Gram Panchayats to be reserved for members of Backward Class A by draw of lots shall be determined by rotation by the concerned SDO (Civil), after deducting the seats reserved for SC, whereas in the present case, the seats for Sarpanches in Gram Panchayats to be reserved for Backward class was taken without excluding the seats reserved for SC and instead of four villages, six villages have been reserved for BCA category. The grievance is that 08 percent be calculated from 69 and not from 49.

It is not in dispute that the reservation of Backward Classes (A) has been done considering the data provided by the Haryana Family Identification Authority as the basis. Reference can further be made to Section 9 (7) of the Haryana Panchayati Raj Act, 1994 which provides that eight percent of the total number of posts of Sarpanch in a block and if the decimal value is 0.5 or more, it shall be rounded off to the next higher integer, Backward Classes (a) in which the backward classes (a) constitute the maximum percentage of the population after excluding those Gram Panchayats, where the post of Sarpanch is already reserved for the Scheduled Castes under sub section (5) shall be allotted by draw of lots out of maximum three times the number of Gram Panchayats proposed for reservation and also by rotation in subsequent elections.

The short question for determination in the present case is that 08 percent is to be assessed from total 69 Gram Panchayats or after deleting 20 reserved for SC.

The petitioner has placed on record notification dated 07.12.2020. Rule 2 (7) of this notification reads as under:-

2 (7) Eight percent of the total number of offices of Sarpanch in a block and rounded off to the next higher integer in case the decimal value is 0.5 or more shall be reserved through draw of lots for Backward Class (A) and such seats shall be rotated amongst Gram Panchayats in every succeeding general election.

Provided that in case any Gram Panchayat is reserved through draw of lots but has no member in Gram Sabha belonging to Backward Class (A) otherwise qualified to be elected as Sarpanch, then for replacing such Gram Panchayat, the draw of lots shall be held amongst the remaining unserved Gram Panchayats.

As per the above said section, out of 69 Gram Panchayats, 08 per cent of the total comes to 06 in number after rounding off the same. After draw of lots, the seats for BCA has rightly been taken as 6 multiplying it by 03 which comes to 18. Thus, the impugned order dated 07.10.2022 (P-8) does not suffer from any illegality.

The petition is dismissed.

(RITU BAHRI)
JUDGE

11.10.2022
G Arora

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No