

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

CWP No. 24816 of 2022

Date of decision: October 28,2022.

Rekha Rani and another

..... **Petitioners**

Vs

State of Haryana and others

.....**Respondents**

CORAM HON'BLE MS. JUSTICE RITU BAHRI

HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Lajpat Rai Sharma, Advocate for the petitioner.

Mr. Ankur Mittal, Additional Advocate General with
Mr. Saurabh Mago, AAG Haryana for official respondents.

Nidhi Gupta,J.

Prayer in the present petition is for quashing of the impugned orders dated 20.10.2022 (Annexures P-2 to P-4) passed by respondent no.5-Returning Officer-cum-SDO (Civil) Safidon, Distt. Jind, whereby the objections filed by petitioners alleging suppression of material information by respondents No. 6 to 8 in their nomination papers for the post of Member, Panchayat Samiti, Safidon Ward No.24, have been rejected; as a result of which said respondents 6 to 8 have been allowed to contest the election.

Singular Allegation of the petitioners against respondents no. 6 to 8 is that they had not divulged correct information regarding the assets of their respective husbands/ other family members in their nomination forms. Accordingly, on 20.10.2022 the petitioners had filed objections before respondent no.5 pointing out the alleged concealment of facts by respondents 6 to 8, and further submitted that their nominations be rejected in view of material suppression of facts.

In response to the petitioners' objections, respondents 6 to 8 were issued show cause notice and asked to clarify the correct position in regard to the complaint. Said respondents filed their individual replies which was duly considered by respondent no.5 whereupon impugned orders dated 20.10.2022 rejecting petitioners' objections were passed.

A perusal of the impugned order at Annexure P-2 whereby petitioners' objections pertaining to candidate - Smt. Arti, respondent no.6 herein, have been rejected, shows that Respondent no. 6 has point-wise clarified each allegation made against her by the petitioners in the said complaint. Similarly, Annexure P-3 shows that candidate Smt. Parmila, respondent No. 7 herein, has point-wise clarified each allegation in the complaint against her, whereafter impugned order P7 rejecting petitioners' complaint was passed. Similarly, impugned order Annexure P-4 pertains to Smt. Anita respondent No. 8 herein, whereby on basis of point-wise clarification given by her, petitioners' complainant against her has also been rejected.

Learned counsel for the State refers to the impugned order and points out that from the respective clarifications given by respondents no.

6 to 8, it is clear that most of the allegations made by the petitioners against

them are incorrect; further that the said respondents had supplied incomplete information in their nomination forms and failed to supply certain details relating to property/ assets/ loans of their family members as they were not aware about the provisions of law. Learned Counsel further informed that as per Section 175 of the Haryana Panchayat Raj Act, 1994 (for short 'the 1994 Act') suppression of information or providing false information in the affidavit is no ground for disqualification; and such cases of false/suppressed information are dealt with under Section 187 of the 1994 Act.

For ready reference, Section 187 of the 1994 Act is reproduced hereunder: -

“187. Other offences and penalties therefor: -

(1) A person shall be guilty of an offence, if, at any election he—

(a) fraudulently defaces or destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any lists, notice or other document affixed by or under the authority of a returning officer; or

(c) fraudulently defaces or destroys any ballot paper or the official mark on any ballot paper or other offence and penalties therefor.

(d) without due authority supplies any ballot paper to any person; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is not authorized by law to be put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purpose of the election; or

(g) fraudulently or without the authority, as the case may be, attempts to do any of the foregoing acts or willfully aids or abets the doing of such acts; or

(h) makes false declaration or submits false contents in the affidavit or conceals any information, as the case may be, at the time of filing nomination.

(2) Any person guilty of an offence under this section shall—

(a) if he is returning officer or a presiding officer at a polling station or any other officer or official employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years or with fine of rupees one thousand or with both;

(b) if he is any other person, on conviction be punished with imprisonment for a terms which may extend to six months or with fine of five hundred rupees or with both.

(3) For the purpose of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression “official duty” shall not include any duty imposed otherwise than by or under this Act.

(4) An offence punishable under clause (b) of sub-section(2) shall be cognizable”

Ld. Counsel for the State submitted that it was in view of the provisions laid down in Section 175 of the 1994 Act that petitioners’ complaints were rejected, and the nominations of respondents 6 to 8 were accepted in the interest of justice; and it was further directed that said

candidates be proceeded against as per provisions of Section 187 of the 1994 Act which provides for imprisonment/ fine/ both.

In view of the above facts and position as explained by Id. Counsel for the State, which is not disputed by the Counsel for the petitioners, we find no ground to interfere, and the writ petition is hereby dismissed.

(Nidhi Gupta)
Judge

(Ritu Bahri)
Judge

October 28,2022.
Joshi

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