

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-1200-2023

Date of decision : 20.01.2023

Abdulla Khan

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present:- Mr.Mazlish Khan, Advocate
for the petitioner.

Ms.Upasana Dhawan, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a civil writ petition under Articles 226/227 of the Constitution of India for issuance of an appropriate writ, order or direction especially a writ in the nature of mandamus directing respondents no.2 to 4 to remove respondent no.5 from the post of Sarpanch, Gram Panchayat Beri Nisfi, Block Tauru, District Nuh (Mewat).

Learned counsel for the petitioner has submitted that the petitioner has submitted a representation dated 11.01.2023 (Annexure P-9) to several officers including respondent no.4-Deputy Commissioner, District Nuh, in which it has been stated that the certificate given by Sarpanch-respondent no.5 has been issued by the Council of Uttar Pradesh State Open School Board which is not in the list of members/ boards of Council of Board of School Education in India. Learned counsel for the petitioner has further referred to the letter dated 18.11.2022 issued by the

State Election Commissioner, Haryana to all the Deputy Commissioners stating that an enquiry should be made in case a complaint is given with respect to any educational certificate of the Sarpanch being bogus/fake. It is further submitted that as per provision of Section 51(3)(b) of the Haryana Panchayat Act, 1994 the Deputy Commissioner along with the Director have the powers to enquire into a matter after giving an opportunity of hearing to the Sarpanch in case they find that the Sarpanch was disqualified to be a member of the Gram Panchayat and also have the power to suspend or remove the said Sarpanch. It is stated that the petitioner was a voter and by virtue of representation dated 11.01.2023, brought to the notice of the Deputy Commissioner the aforesaid facts and the petitioner would be satisfied that in case respondent no.4 considers the said representation, in accordance with law.

Learned State counsel appearing for respondents no.1 to 4 has submitted that the power of suspension and removal under Section 51 is an enabling power and same would not give a right to the petitioner to seek the suspension and removal of the Sarpanch or Panch. However, since the power is vested with the Deputy Commissioner to order an enquiry, thus, the Deputy Commissioner would look into the representation dated 11.01.2023, in accordance with law and in case respondent no.4 is of the opinion that any action is required to be taken with respect to the same, then the same would be taken, in accordance with law after following the principles of natural justice.

Keeping in view the above said facts and circumstances, the present petition is disposed of with a direction to respondent no.4 to look into the representation dated 11.01.2023 (Annexure P-9) and in case, after

looking into the said representation and making necessary enquiry, respondent no.4 is of the opinion that any action is required to be taken in the matter, then the same be done, in accordance with law and after following the principles of natural justice.

(VIKAS BAHL)
JUDGE

January 20, 2023
Davinder Kumar

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