

CWP No.8067 of 2023

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2023:PHHC:055057

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

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CWP No.8067 of 2023

Date of Decision: 19.04.2023

Kusham

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Ms. Upasna Dhawan, AAG, Haryana
for respondents No.1 to 4.

VIKAS BAHL, J (ORAL)

This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus for directing respondent No.2 to take appropriate action against the private respondents as well as the employee/official who has changed the original mark sheet of the petitioner from the record in order to get the petitioner suspended.

A perusal of the paper book would show that an inquiry was held on 14.03.2023 and in the said inquiry, it was the stand of the present petitioner that she had applied for information under the Right to Information Act to get own documents which she had attached with her nomination form for the post of Sarpanch and thus, her complete statement be recorded. The statements of complainant-Jaidev, Sahab Singh, Block Development and Panchayat Officer and Balkar Singh, Gram Secretary Additional Charger SEPO, Indri and Panchayat Officer were also recorded

to the effect that the information regarding petitioner's documents was taken by the complainant-Jaidev under the Right to Information Act. The complainant had obtained the certificate of 8th class under the Right to Information Act, which as per complainant's case, was annexed along with the nomination paper of the petitioner and that it is not entered/mentioned under the Haryana School Education Board, Bhiwani. The case of the petitioner is that she had annexed Annexure P-7 along with her nomination paper and the said certificate has been changed with the one which the complainant has obtained under the Right to Information Act (Annexure P-8) and that since now the petitioner has been able to get all the documents under the Right to Information Act and after getting the said documents, the petitioner has filed the reply dated 01.04.2023 (Annexure P-6) to the show-cause-notice dated 21.03.2023 (Annexure P-4) issued by the Deputy Commissioner, Karnal to consider as to whether the proceedings under Section 51 of the Haryana Panchayati Raj Act should be initiated against the petitioner or not.

Learned counsel for the petitioner has further submitted that in the said reply, it has specifically been stated by the petitioner that the said 8th class certificate has been changed seemingly at the behest of the complainant. It is submitted by the petitioner that the certificate (Annexure P-8) which has now been annexed with the record, does not belong to the petitioner. It is further submitted by the petitioner that the said aspect be considered by the authorities before taking any final decision.

Learned State counsel, on the other hand, has submitted that only a show-cause-notice dated 21.03.2023 has been issued and the authorities are yet to decide as to whether the proceedings under Section 51 of the Haryana Panchayati Raj Act have to be initiated or not. It is

submitted that although the hearing was granted to the petitioner but the petitioner did not come present but yet, no decision has been taken as to whether to proceed against the present petitioner under Section 51 of the Haryana Panchayati Raj Act or not.

Learned counsel for the petitioner has further submitted that since no decision has been taken by the authorities to proceed against the present petitioner under Section 51 of the Haryana Panchayati Raj Act or not, thus, the petitioner would be permitted to withdraw the present petition with liberty to take up all the points which have been raised in the reply dated 01.04.2023 before the authorities. He has further prayed that before decision is taken with respect to the show-cause-notice dated 21.03.2023, the reply filed by the petitioner dated 01.04.2023 be considered and the petitioner along with other concerned persons be given a personal hearing. It is further prayed that in case the authorities come to the conclusion that the said document along with the nomination paper has been changed, then appropriate action be taken in accordance with law.

Keeping in view the above said facts and circumstances and moreso the fact that since no final decision on the show-cause-notice dated 21.03.2023 has been taken yet, the petitioner is permitted to withdraw the present writ petition with liberty to take up all the points which have been raised in the reply dated 01.04.2023 and also in the present writ petition, before the authorities concerned.

Respondent No.2-Deputy Commissioner, Karnal is directed to take into consideration the reply dated 01.04.2023 (Annexure P-6) filed by the petitioner to the show-cause-notice dated 21.03.2023 and after considering the entire material including the one given by the private respondents and the petitioner, a decision on the show-cause-notice dated

21.03.2023 be taken.

In case, Deputy Commissioner, Karnal is of the opinion that the document along with the nomination form has been changed, then appropriate action be also taken in accordance with law. The same would be done after hearing all the concerned parties.

It is clarified that this Court has not considered the merits of the case and respondent No.2-Deputy Commissioner, Karnal would consider the entire aspects independently, in accordance with law.

19.04.2023
D.Bansal

(VIKAS BAHL)
JUDGE

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