

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-10267-2023

Date of decision : 12.05.2023

Jai Dev

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Jarnail Singh Saneta, Advocate for the petitioner.

Ms. Rajni Gupta, Addl.A.G. Haryana for respondents no.1 to 5.

VIKAS BAHL, J.(ORAL)

1. 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 directing the official respondents to consider the representation dated 27.03.2023 (Annexure P-5) given by the petitioner in view of the inquiry report dated 14.03.2023 (Annexure P-4) and for taking action against respondent no.6 in view of the said inquiry report as per which it has been found that forged and false 8th class certificate has been submitted along with nomination form for contesting the election of Sarpanch, Gram Panchayat Umarpur, Tehsil Indri, District Karnal.

2. Learned counsel for the petitioner has submitted that subsequent to the inquiry report dated 14.03.2023, petitioner has given a representation to the Deputy Commissioner, Karnal on 27.03.2023 bringing all the facts against respondent no.6 and has submitted that as per the provisions of Section 51 (3)(b) of the Haryana Panchayati Raj 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 is disqualified to be a member of the Gram Panchayat and also have the power to suspend or remove the said Sarpanch. It is submitted that the petitioner would be satisfied in case respondent no.3 considers the said representation, in accordance with law.

3. Learned State counsel appearing for respondents no.1 to 5 has submitted that the power of suspension and removal under Section 51 is an enabling power and the 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 consider the representation dated 27.03.2023, in accordance with law and in case respondent no.3 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.

4. Keeping in view the above said facts and circumstances, the present petition is disposed of with a direction to respondent no.3 to consider the representation dated 27.03.2023 (Annexure P-5) and in case, after considering the said representation, respondent no.3 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.

5. It is made clear that this Court has not opined on the merits of the case and respondent no.3 would consider the representation independently, in accordance with law.

(VIKAS BAHL)
JUDGE

May 12, 2023

Davinder Kumar