

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-24409-2022 (O&M)
Date of Decision: 18.05.2023

ASGAR

..... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. Sarfraj Hussain, Advocate for the petitioner.

Mr. Ankur Mittal, Additional AG, Haryana and
Mr. Saurabh Mago, Assistant AG, Haryana.

LISA GILL, J.

1. Prayer in this writ petition is for quashing memo dated 12.10.2022 (Annexure P-2), vide which post of Sarpanch, Gram Panchayat Hafjabad has been reserved for Scheduled Caste category. It is alleged that there has been manipulation of data regarding population of Scheduled Caste category in the said Gram Panchayat. Reference has been made to report dated 15.04.2015, held under the Chairmanship of Sub-Divisional Officer (Civil), Hodal (Palwal), in terms of Rule 5 (1)(2) of the Haryana Panchayati Raj Election Rules, 1994, wherein total population of Gram Panchayat Hafjabad is stated to be 1613 with the Scheduled Caste category population being 429 percentage thereof being 26.60%.

2. It is contended that as of now population of the Gram Panchayat Hafjabad is reflected to be 915 with that of Scheduled Caste category population to be 347 taking the percentage of the Scheduled Caste population to be 37.92%.

3. Status report by way of affidavit dated 05.07.2021 on behalf of respondents no.1 to 6 has been filed wherein the matter has been clarified as under:-

“2- That the petitioner has annexed Annexure P-3 showing meeting held on 15-4-2015 and also showing population of SC in village Hafjabad as 26.60% which based upon the census of year 2011, however previously a complaint dated 16-8-2021 was received by the office of District Commissioner/Election Officer District Palwal and in pursuance of that application Deputy Commissioner Palwal constituted a committee to inquire about the percentage of S.C. population vide letter bearing memo no. 1855-58 dated 5.7.2021 (Annexure R-1) and in pursuance of the same the committee constituted for that inquiry submitted its inquiry report vide memo no. 1910 dated 9.7.2021 (Annexure R-2) and in that inquiry report it came before the authorities that the village Hafjabad has the total Population 915, consists of S.C. Population 347 and from the same the percentage of S.C. population in the village Hafjabad came out to be 37.92%. It is also submitted that the figures as shown in the Annexure P-3 on the basis of meeting held on 15.4.2015 were found incorrect by the inquiry committee in its report dated 9.7.2021 and it is worth mentioning here that the present entire process has been carried out by the respondent as per the correct data of the S.C. population came on surface in this inquiry report dated 9.7.2021.”

4. Learned counsel for the State reiterates that figures as of now are based on the census of 2011 and the mistake which had earlier occurred in 2015 was corrected after an inquiry held in the matter, on a complaint being filed. Reference is made by learned Counsel for the State to the evaluation reports submitted on enquiry, attached as Annexure R-2, whereby the village-wise population data after the census of 2011 is attached as well.

4. Learned counsel for the petitioner in the given facts and circumstances while not disputing the present data, submits that the anxiety is that in case such variations in the data are permitted, it would lead to a chaotic situation where the reservation or otherwise of the seats would be left to the whims and fancies of the officers concerned.

5. We have heard learned counsel for the parties, but keeping in view the facts and circumstances as above and noting that the percentage as explained in the status report is not being contested, we find no ground for interference for setting aside the election to the post of Sarpanch, as has been obliquely sought to be addressed by learned counsel for the petitioner and also keeping in view the fact that elections to the post of Sarpanch Gram Panchayat Hafjabad have been concluded in November, 2022. However, keeping in view fact that necessary correction was carried out after an enquiry following a complaint, responsibility thereof should be fixed and in case any particular official is found at fault, necessary action should be taken in the matter.

6. Writ petition is disposed of accordingly.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

18.05.2023

Sunil

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