

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. Civil Writ Petition No. 25384 of 2022(O&M)
Date of Decision: February 02 , 2023.

Manpreet Kaur PETITIONER(s)

Versus

State of Haryana and others RESPONDENT (s)

2. Civil Writ Petition No. 24752 of 2022(O&M).

Fazal Hussain PETITIONER(s)

Versus

State of Haryana and others RESPONDENT (s)

3. Civil Writ Petition No. 25492 of 2022(O&M).

Jagtar Singh son of Darshan Singh PETITIONER(s)

Versus

State of Haryana and others RESPONDENT (s)

4. Civil Writ Petition No. 25526 of 2022(O&M).

Anil Kumar PETITIONER(s)

Versus

State of Haryana and others RESPONDENT (s)

5. Civil Writ Petition No. 25528 of 2022(O&M).

Paramjeet Kaur PETITIONER(s)

Versus

State of Haryana and others RESPONDENT (s)

6. Civil Writ Petition No. 25531 of 2022(O&M).

Jagtar Singh son of Buta Singh PETITIONER(s)

Versus

State of Haryana and others

..... RESPONDENT (s)

7.

Civil Writ Petition No. 27875 of 2022(O&M).

Sweety Rani

..... 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. Rajinder Goel, Advocate
for the petitioner(s) in CWP Nos.25384, 25492, 25526,
25528 and 25531 of 2022.

Mr. Nikhil Vats, Advocate
for the petitioner in CWP No.27875 of 2022.

Mr. Sarfaraz Anjum Mor, Advocate
for the petitioner in CWP No.24752 of 2022.

Mr. Aman Bahri, Addl.AG, Haryana.

Mr. Harshit Jangra, Advocate for
Mr. Anil Mehta, Advocate and
Mr. Nishant Indal, Advocate
for respondent No.5 in CWP No.25384 of 2022.

Mr. Vikram Singh, Advocate
for respondent No.5 in CWP Nos.25492, 25531 and 25526 of 2022.
and respondent No.6 in CWP Nos.25528 and 25384 of 2022.

Mr. Madan Sandhu, Advocate
for respondent No.6 in CWP No.27875 of 2022.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

All the above-mentioned writ petitions are taken up together for

adjudication and decision as they involve an identical issue.

Notice of motion was first issued in CWP No.25384 of 2022, thereafter other writ petitions were directed to be heard alongwith CWP No.25384 of 2022. In all the writ petitions prayer is for cancelling the candidature of private respondents therein, who were contesting election for the post of Sarpanch/Panch, on the ground that said candidates are disqualified to contest/hold the post of Sarpanch/Panch in terms of provisions of Section 175 of the Haryana Panchayati Raj Act, 1994 (hereinafter referred to as the 'Act').

It is pleaded in CWP No.25384 of 2022 that respondents No.5 and 6 are disqualified for contesting elections to the post of Sarpanch in terms of Section 175(1)(n) of the Act on the ground that they are in unauthorized possession of Gram Panchayat land. It is averred that respondent No.5 is in established unauthorized possession of one House No.68K, which is constructed on land comprised in Killa No.32//6, village Garhi Langri, Tehsil Pehowa, District Kurukshetra and respondent No.6 is in established unauthorized possession of one House No.72A which is also situated on the land in Killa No.32//6 of village Garhi Langri. It is pleaded that Killa No.32//6 is owned by Gram Panchayat of village Garhi Langri. Reference has been made to certain petitions filed by the Gram Panchayat for ejectment of unauthorized occupants of the said land. It is thus pleaded that respondents No.5 and 6 who have filed their nomination papers for contesting election to the post of Sarpanch of village Garhi Langri are disqualified for the same. Petitioner in CWP No.25384 of 2022, who was also a contender for the post of Sarpanch submitted two separate complaints/objections before respondent No.3, the Returning Officer, for

cancellation of candidature of respondents No.5 and 6 on the ground of their disqualification under Section 175(1)(n) as they are alleged to be in unauthorised possession of Gram Panchayat land. Grievance raised in this writ petition is that no action was being taken on the basis of the complaints submitted by the petitioner and that in the given circumstances respondents No.5 and 6 should be restrained from contesting the election in question.

Notice of motion was issued in CWP No.25384 of 2022 by a coordinate Bench on 07.11.2022 and election proceedings qua village Garhi Langri were directed to be stayed. However, said interim order was vacated on 11.11.2022 and election to the post of Sarpanch of village Garhi Langri was conducted on 30.11.2022. Ms. Ranjeet Kaur, respondent No.6, has been elected to the post of Sarpanch.

Reply by way of Status Report in CWP No.25384 of 2022 has been filed on behalf of respondent No.2 wherein it is affirmed that as per Jamabandi for the year 2020-2021, the land comprised in Khewat 129, Khasra No.32//6, 10 and 11, 24//17/2 is owned by Gram Panchayat, Garhi Langri. As per report of the Revenue Officer (Tehsildar), Pehowa, respondents No.5 and 6 were not personally found to be in illegal possession of the Gram Panchayat land. It has been asserted by learned counsel for the petitioner that it is the father-in-law/husband of the said respondents, who are recorded as the owners of the house in question and the said respondents are very well residing in the same house, therefore, it cannot be said that they are not in illegal possession of the Gram Panchayat land.

Prayer in the other connected writ petitions in which reply has not been filed is narrated briefly as under:-

CWP No.24752 of 2022 Prayer is for cancellation of nomination of respondents No.8 and 9 to the post of Sarpanch, Gram Panchayat Babupur Nuh being in unauthorized possession of the Gram Panchayat land. It is informed by learned counsel for the State that elections to the post of Sarpanch of village Babupur Nuh were conducted on 02.11.2022 and Ms. Nafisa, respondent No.8, has been elected to the post of Sarpanch.

CWP No.25492 of 2022 Prayer is for cancelling the candidature of respondent No.5, who was contesting for the post of Panch, Gram Panchayat Garhi Langri, Block Pehowa, District Kurukshetra on the ground that he is in unauthorized possession of the Gram Panchayat land. It is informed by learned counsel for the State that elections to the post of Panch of Gram Panchayat Garhi Langri were conducted on 30.11.2022 and Mr. Lakhbir Singh, respondent No.5, has been elected to the post of Panch.

CWP No.25526 of 2022 Prayer is for cancelling the candidature of respondent No.5, who was contesting for the post of Panch, Gram Panchayat Garhi Langri, Block Pehowa, District Kurukshetra on the ground that he is in arrears of ₹1,32,800/- despite notice dated 06.09.2022 issued by the Block Development & Panchayat Officer, Pehowa. It is informed by learned counsel for the State that elections to the post of Panch of Gram Panchayat Garhi Langri were

conducted on 30.11.2022 and Mr. Gurpal Singh, respondent No.5, has been elected to the post of Panch.

CWP No.25528 of 2022 Prayer is for cancelling the candidature of respondents No.5 and 6, who were contesting for the post of Panch, Gram Panchayat Garhi Langri, Block Pehowa, District Kurukshetra on the ground that they are in unauthorized possession of the Gram Panchayat land. It is informed by learned counsel for the State that elections to the post of Panch of Gram Panchayat Garhi Langri were conducted on 30.11.2022 and Ms. Ramandeep Kaur, respondent No.6, has been elected to the post of Panch.

CWP No.25531 of 2022 Prayer is for cancelling the candidature of respondent No.5, who was contesting election for the post of Panch, Gram Panchayat village Garhi Langri, Block Pehowa, District Kurukshetra on the ground that she is in established unauthorized possession of the Gram Panchayat land. It is informed by learned counsel for the State that elections to the post of Panch, Gram Panchayat village Garhi Langri were conducted on 30.11.2022 and Mr. Jaswinder Singh, respondent No.5, has been elected to the post of Panch.

CWP No.27875 of 2022 Prayer is for rejection of the candidature of respondent No.6, who was contesting election for the post of Sarpanch, Gram Panchayat village Dawala, Tehsil and District Jhajjar on the ground that she is in unauthorized possession of the Gram Panchayat land. It is informed by learned counsel for the State that

elections to the post of Sarpanch, Gram Panchayat village Dawala were conducted on 02.11.2022 and Ms. Divyansha, respondent No.6, has been elected to the post of Sarpanch.

It is, thus, apparent that elections have since been conducted and the candidates elected to the post of Panch/Sarpanch.

When faced with the question of interference by this Court in all these cases, at this stage, learned counsel for the petitioners restricted the prayer for an enquiry into the question of elected private respondents being disqualified to contest the post of Sarpanch/Panch in terms of Section 175 of the Act. It is prayed that necessary action should be taken in terms of Section 177 of the Act as the elected persons in question are disqualified from holding the post in question as per Section 175 of the Act.

Learned counsel for the petitioner submits that insofar as CWP No.25384 of 2022 is concerned, the enquiry which has been conducted and report of the Tehsildar relied upon by the respondents is not in consonance with the provisions of the Act. Moreover, it does not reflect the factual position. Thus, an enquiry in consonance with the provisions of the Act is required to be conducted and a decision taken thereon by the competent authority. We find merit in this argument raised by learned counsel for the petitioner. The question whether a candidate who is residing in a house owned by the father-in-law, husband or any other relation, with the said house/part thereof having been constructed without any authority over Gram Panchayat land, can claim that he/she is not in illegal possession of Gram Panchayat land, has to be considered

by the competent authority adopting a procedure in accordance with the law.

In respect to the other writ petitions, learned counsel for the State does not have any instructions as to whether an inquiry regarding disqualification of the candidates in question has been initiated or not in accordance with Section 177 of the Act.

Be that as it may, in the given factual matrix, we direct that in case an application/representation is submitted by the petitioner(s) before the competent authority within the next two weeks regarding the elected private respondents being disqualified to hold the post of Sarpanch/Panch in terms of Section 175 of the Act, the same shall be decided expeditiously in accordance with law, after affording due opportunity of hearing to all concerned, including the petitioners and preferably within a period of three months from receipt of certified copy of this order.

All seven writ petitions are disposed of accordingly.

It is clarified that there is no expression of opinion on the merits of the controversy.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

February 02 , 2023.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No