

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

Civil Writ Petition No.25521 of 2022(O&M)

Date of Decision: February 02 , 2023.

Pardeep Kumar

..... 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. Krishan Singh, Advocate
for the petitioner.

Mr. Aman Bahri, Addl.AG, Haryana

Mr. P.S.Poonia, Advocate and
Mr. Pulkit Dhanda, Advocate
for respondents No.5 and 6.

LISA GILL, J.

CM No.1206-CWP of 2023

Replication alongwith Annexures P11 to P13 to Short Reply filed on
behalf of respondents No.1 to 4, is taken on record subject to just exceptions.

Exemption from filing certified copies of Annexures P11 to P13 is granted.

Application is accordingly disposed of.

CWP No.25521 of 2022

Prayer in this writ petition is for rejection of nomination forms
submitted by respondents No.5 and 6 for contesting election to the post of
Sarpanch, Gram Panchayat, village Mianpur on the ground that they are in
unauthorized possession of the government land. Furthermore, Matriculation

Certificate submitted by respondent No.5 is claimed to be a forged and fraudulent document. Moreover, respondent No.6 has been declared a proclaimed offender vide order dated 20.08.2016. The petitioner, who claims to be a candidate for contesting election to the post of Sarpanch, Gram Panchayat, village Mianpur, submitted complaint/objections against the candidature of respondents No.5 and 6 before respondent No.4-Returning Officer-cum-Sub Divisional Magistrate, Naraingarh, but no action thereon, it is stated, was taken.

Short reply by way of affidavit dated 09.01.2023 of Ms. C Jayasharadha, Returning Officer-cum-SDM, Naraingarh, District Ambala on behalf of respondents No.1 to 4 has been filed wherein it is categorically stated that no complaint or objections, especially the ones attached with this writ petition as Annexures P2 and P3 were received on 29.10.2022 i.e., the last date for scrutiny/filing objections as per the election schedule. However, on verification of the facts which is stated to have been carried out, respondent No.5 was found to be owner-in-possession of a house different from the one mentioned in Demarcation Report, Annexure P4, as relied upon by the petitioner. The house mentioned in the Demarcation Report is stated to be owned and possessed by Gurdeep Singh. It is further stated that petitioner, who has lost the election to respondent No.5 has the remedy to file an election petition.

Averments as above have been disputed by learned counsel for the petitioner, who submits that proper enquiry has not been carried out. Gurdeep Singh is stated to be the son of respondent No.5. Moreover, genuineness of the educational certificates produced by respondent No.5, it is stated, has not even been inquired into. Furthermore, respondent No.5 being disqualified to hold the post of Sarpanch is liable to be proceeded against in terms of Section 177 of the

Haryana Panchayati Raj Act, 1994 (for short, the 'Act'). Learned counsel for the petitioner, at this stage, restricts the prayer in this writ petition for an enquiry into the question of respondent No.5 being disqualified to contest/hold the post of Sarpanch in terms of Section 175 of the Act.

We have heard learned counsel for the parties and have perused the writ petition as well as short reply filed on behalf of the State.

It is a matter of record that enquiry into the question of disqualification of respondents No.5 under Section 175 of the Act has not been carried out till date by the competent authority in terms of the specific provisions of law.

Writ petition is accordingly disposed of with a direction to the competent authority to look into the question of disqualification of respondent No.5 under Section 175 of the Act and take necessary action in terms of Section 177 of the Act expeditiously, after affording due opportunity of hearing to all concerned, in accordance with law, preferably within a period of three months from receipt of certified copy of this order.

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