

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

CWP-27524-2023

Date of decision : 07.12.2023

Ramesh Lal and another

.....Petitioners

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Ms. Monika Beriwal, Advocate
for the petitioners.

Ms. Upasana Dhawan, AAG, Haryana.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for issuance of direction for setting aside the order dated 08.08.2023 (Annexure P-9) passed by learned Divisional Commissioner, Karnal without having jurisdiction whereby the well reasoned and speaking order passed by the Deputy Commissioner, Karnal dated 01.08.2023 (Annexure P-8) has been set aside which illegal, arbitrary, unfair, perverse and against the facts and against the principle of natural justice. Further prayer has been made for issuance of direction to the official respondents to enforce the order dated 01.08.2023 (Annexure P-8) passed by the Deputy Commissioner, Karnal regarding termination of respondent No.7 from the post of Sarpanch, Gram Panchyat, Sarwan Majra, Tehsil Indri, District Karnal and to take the charge from her. Further prayer has been made directing respondents No.1 to 6 to take appropriate legal action against respondent No.7 and her accomplices who helped her in procuring the false and forged documents for contesting and winning election on the post of Sarpanch which was reserved for candidates of Scheduled Caste and take appropriate legal

action against her in the facts and circumstances of the present case.

It has been contended by counsel for the petitioner that vide notification dated 28.09.2022, the Government of Haryana had directed the General Election of all the Panchs and Sarpanchs of the Gram Panchayat. On 14.10.2022, respondent No.2 issued notification vide which the schedule for conducting the General Election was issued. She submits that respondent No.7 filed the nomination on 26.10.2022 for contesting the election which was reserved for the candidates of Scheduled Caste. She submits that respondent No.7 was declared winner for the post of Sarpanch of Village Sarwan Majra, Tehsil Indri, District Karnal on 12.11.2022. She submits that after winning the election by respondent No.7, the petitioners came to know that respondent No.7 did not belong to the Scheduled Caste and had manipulated her documents and procured false, fake and forged SC certificate. She submits that petitioners filed the application under Right To Information on 03.12.2022. She submits that petitioner on receiving the reply of her RTI application, found that respondent No.7 deliberately prepared and submitted forged document claiming herself to be Scheduled Caste candidate. She submits that petitioner No.2 filed a complaint to the Chief Election Commissioner, Haryana for terminating respondent No.7 from the post of Sarpanch and to take strict action against respondent No.7. She submits that petitioners and other villagers on 22.02.2023 sent a representation against respondent No.7 to the Deputy Commissioner for taking legal action against respondent No.7. She has submitted that the Additional Deputy Commissioner submitted his enquiry report to the Deputy Commissioner, Karnal with the finding that respondent No.7 had

procured a forged SC certificate and thus, recommended the legal action against her. On 28.07.2023, the Deputy Commissioner issued a show cause notice to respondent No.7 and on considering the reply filed by her terminated her from the post of Sarpanch on 01.08.2023. Respondent No.7 aggrieved by the same, filed an appeal before the Divisional Commissioner, Karnal against the order passed by the Deputy Commissioner, Karnal. Learned Divisional Commissioner set aside the order passed by the Deputy Commissioner and remanded the case to the Deputy Commissioner for a decision afresh vide his order dated 08.08.2023.

It is submitted by learned counsel for the petitioners that the view taken by the Divisional Commissioner i.e. respondent No.4 is totally unsustainable in the eyes of law as he has no jurisdiction to entertain the appeal filed by respondent No.7. She submits that it is found from the enquiry report submitted by Additional Deputy Commissioner that respondent No.7 procured a forged SC certificate and thus, there was no reason for setting aside the well reasoned order passed by the Deputy Commissioner in terminating her from the post of Sarpanch. She submits that the order passed by Divisional Commissioner is cryptic and thus, being non-speaking order, the same deserves to be *set aside*.

Learned State counsel on the other hand has submitted that as per the amended Act, the Divisional Commissioner is duly empowered to entertain the appeal filed against the order passed by the Deputy Commissioner.

Heard. After hearing counsel for the parties and perusing the record, it is found that respondent No.7 belonged to Scheduled Caste

category whereas, she had performed marriage in General Category. It was submitted by respondent No.7 before the Appellate Authority that neither she was given right of hearing nor she was provided any opportunity to submit the record. It was further submitted by her that the enquiry officer did not examine her caste certificate and thus, she was terminated in violation of the established principles of law. Thus, the case was remanded for a decision afresh. On perusing the record, this Court finds that respondent No.7 was an elected Sarpanch of the Village who was terminated on the allegations of submitting forged SC certificate while contesting the election however, during the appeal filed, it was submitted that she was not heard by the authorities and was not provided the opportunity of producing her record. Thus, in the interest of justice, termination order was *set aside* and the case was remanded for decision afresh. In view of the considered opinion of this Court, this Court do not find any infirmity in the view taken by the Appellate Court in remanding the case. However, keeping in view the facts and circumstances of the case, the Deputy Commissioner is directed to decide the case afresh after providing due opportunity of hearing to the parties expeditiously preferably, within two months from the date of receipt of certified copy of this order.

Petition stands disposed of accordingly.

07.12.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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