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

CWP No.986 of 2024

Date of Decision: 16.01.2024

Smt. Suman

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Paramjit Singh Jammu, Advocate with
Mr. Karan Bansal, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

Present writ petition has been filed for setting aside the impugned order dated 18.04.2023 (Annexure P-3) passed by respondent No.3 i.e. Deputy Commissioner vide which the petitioner has been declared disqualified for the post of Sarpanch and has been removed from the post as well as impugned order dated 15.12.2023 (Annexure P-5) passed by respondent No.2 vide which appeal against the order dated 18.04.2023 (Annexure P-3) has been dismissed as the said orders (Annexure P-3 and P-5) are illegal, arbitrary, against the relevant rules and are liable to be set aside as the petitioner has passed 8th class from Rajasthan State and has thus having requisite qualification for the post of lady Sarpanch.

It has been submitted by learned counsel for the petitioner that election of the Gram Panchayat was held and the petitioner was

elected as Sarpanch of the village on 12.11.2022. He submits that the petitioner took oath as the Sarpanch on 03.12.2022 in the office of Block Development and Panchayat Officer, Ellenabad. He submits that after the petitioner having been elected, a false and frivolous complaint was filed against her that matriculation certification submitted by the petitioner at the time of contesting the election issued from the Jharkhand State Open School Board, Ranchi as it was not recognized by the Haryana Board of School Education, and hence the petitioner was disqualified for the post of Sarpanch of the village. He submits that the petitioner had passed the middle class from Sanskar Public School, Rang Mahal Suratgarh from Rajasthan Education Board on 12.07.1999 and the certificate to this effect was also produced by the petitioner. He has submitted that the petitioner had passed the matriculation from Jharkhand State Open School Board on 21.07.2020. He has submitted that on the basis of the complaint, an inquiry was conducted and by illegally holding that the matriculation certificate produced by the petitioner to be forged, she was disqualified for the post of Sarpanch by respondent No.3 i.e. the Deputy Commissioner, Sirsa vide order dated 18.04.2023. He has submitted that aggrieved by the order passed by the Deputy Commissioner, Sirsa, the petitioner filed an appeal before respondent No.2 i.e. the Commissioner, Hisar Division, Hisar. He submits that respondent No.2 again failed to appreciate that the petitioner had duly passed the middle class and hence even if 10th class certificate produced was not recognized, she did not earn any disqualification as the minimum qualification required for contesting the election for the Sarpanch by a woman is 8th pass. However,

the learned Appellate Court failed to appreciate the same and thus, has illegally dismissed the appeal filed by the petitioner vide his order dated 15.12.2023. He has submitted that respondent No.4 without verification had issued the letter that Jharkhand State Open School Board, Ranchi is not recognized and included in the list of fake Board of Schools and thus, the matriculation certificate produced by the petitioner was illegally held to be fake. He has submitted that the petitioner had appeared in the examination in June 2020 and passed the examination with Second Division and thereafter even the migration certificate had been issued on 21.07.2020. He has submitted that the Jharkhand State Open School, Ranchi is recognized by the Government of India as well as by the Government of Jharkhand which is equivalent to the certificate issued by the other Board of States. He has submitted that as per the provisions of Section 175 Sub Section (v) of the Haryana Panchayati Raj Act, 1994 (for short 'the Act'), the minimum qualification for a woman candidate for the post of Sarpanch is 8th class pass. He has submitted that the petitioner had passed the middle class examination on 12.07.1999 and thereafter, the petitioner left her education. He submits that thereafter the petitioner passed the matriculation examination on 21.07.2020. He submits that the view taken by both the Deputy Commissioner and the Appellate Court is totally unsustainable in the eyes of law as the petitioner was duly qualified and hence the provisions of Section 175(v) of the Act disqualifying her are not attracted as she had passed the middle class examination from Rajasthan. He submits that the impugned orders being unsustainable in the eyes of law deserve to be set aside.

Heard.

On hearing learned counsel for the petitioner and perusing the record, it is apparent that election for the post of Sarpanch was held on 12.11.2022 and the petitioner was elected as Sarpanch of the village, who took oath on 03.12.2022. On her appointment, a complaint was received regarding contesting the election on the basis of 10th class certificate issued from the Jharkhand State Open School Board, Ranchi. On the basis of complaint, the investigation was carried out by the Sub Divisional Officer, Ellenabad. In the investigation carried out by the District Education Officer, Sirsa, certificate produced by the petitioner at the time of contesting the election was found to be forged. As the education qualification certificate produced by the petitioner was found to be forged, an action was initiated against the petitioner under Rule 51 of the Act and thus, the petitioner was held disqualified in view of the provisions of Section 175(v) of the Act. The petitioner was duly served with the notice and personal hearing was also granted to her. On hearing the petitioner and perusing the record, investigation was carried out. It was established that 10th class certificate produced at the time of contesting the election was forged and thus, she was removed from the post of Sarpanch by the Deputy Commissioner vide order dated 18.04.2023. Aggrieved by the same, the petitioner filed an appeal before the Commissioner, Hisar Division, Hisar, in which notice was issued and the petitioner was heard again. During the pendency of the appeal, the petitioner produced a certificate showing her as 8th class pass. This certificate was issued by the Sanskar Public School Rang Mahal,

Suratgarh from Rajasthan Education Board. However, no confirmation regarding passing of the 8th class was found. The petitioner did not produce any copy of the DMC in support of the same. It is worthwhile to note that this certificate was produced by the petitioner during the pendency of the appeal and not at the time when the investigation was carried out initially by the Sub Divisional Officer. Thus, the appeal filed was also dismissed. On perusal of the record and the statutory provisions of Section 175(v) of the Act, the petitioner is found to be disqualified.

In the considered opinion of this Court, this Court does not find the petitioner to be eligible as she has failed to produce any evidence in support of her mandatory qualification required for contesting the election. Accordingly, no infirmity or perversity is found in the impugned orders passed and thus, the present petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

16.01.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No