

CWP-6999-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-6999-2024 (O&M)

Date of decision: March 22, 2024

Nisha Kano Vangha

....Petitioner

versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE HARSH BUNGER**

Present:- Mr. Ravi Gakhar, Advocate for petitioner.

Mr. Naveen S. Bhardwaj, Additional AG Haryana.

Mr. Satya Pal Jain, Additional Solicitor General of India with
Mr. Dheeraj Jain, Senior Counsel for respondent No.5-UOI.

SUDHIR SINGH, J. (ORAL)

The petitioner seeks issuance of a writ in the nature of Certiorari for quashing the order dated 14.03.2024 (Annexure P-21) passed by respondent No.3, whereby vote of the petitioner has illegally been cancelled.

2. Learned counsel for the petitioner submits that petitioner was born in Mombasa Kenya, on 07.10.1986 (Annexure P-2). On 03.08.2012 (Annexure P-3), she got married to Punit Garg. From 2012 till 2022, the petitioner gave birth to three children i.e., two daughters and one son. She applied and got issued relevant documents i.e., Aadhar Card, PAN Card, Voter Card, Haryana Parivar Pehchan Patra, Resident Certificate. In the year 2022, the petitioner contested elections for the post of President, Municipal Committee, Ismailabad, District Kurukshetra and was declared as a successful candidate.

2.1. Learned counsel for the petitioner submits that after a gap of approximately one year, one show cause notice dated 17.04.2023 (Annexure P-9)

was issued to the petitioner by the State Election Commission, Haryana, on a

complaint dated 03.07.2022 made by one Sube Singh and other residents of Ismailabad alleging that petitioner is a citizen of Kenya and not that of India. He submits that vide letter dated 17.04.2023 (Annexure P-10), State Election Commission issued a letter to the Deputy Commissioner, Kurukshetra for verification of the documents of petitioner being elected president of Municipal Committee, Kurukshetra. Further vide letter dated 24.04.2023 (Annexure P-11), Electoral Officer, Pehowa issued a letter to Tehsildar Electoral, Kurukshetra for verification of documents of the petitioner. Vide letter dated 25.04.2023 (Annexure P-12), Sub Divisional Officer (C), Pehowa issued a notice to the petitioner regarding verification of her documents.

2.2. Learned counsel further submits that to avoid any trouble, vide application dated 30.06.2023 (Annexure P-15), the petitioner has formally applied for registration as a Citizen of India, under Section 5(1)(g) of the Citizenship Act, 1955 and the same is under process of the State of Haryana.

2.3. Learned counsel submits that vide impugned order dated 14.03.2024 (Annexure P-21), Electoral Registration Officer, 14-Pehowa Vidhan Sabha Election Area and Sub Divisional Officer, Pehowa cancelled the vote of the petitioner, as per implied provision under Section 16(1)(a) of the Act of 1950, while referring to letter dated 12.03.2024 of the State Election Commission, Haryana, Panchkula stating that petitioner has not attained the Indian Citizenship till date, and due to which she is not eligible to be registered under election voter list of Vidhan Sabha Election Area or Municipal Committee, Ismailabad.

3. On advance service of copy of petition, learned State counsel as well as learned Additional Solicitor General of India appear and oppose issuance of notice of motion.

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4. We have heard learned counsel for the parties and perused the record.
5. From the perusal of record, it appears that issue of citizenship to Government of India of the petitioner, vide Annexures P-15 and P-20, is pending before the concerned authorities and so far as the impugned order dated 14.03.2024 (Annexure P-21) is concerned, there is an alternative remedy available to the petitioner under Section 24 of the Representation of the People Act, 1950.
6. Faced with the aforesaid, learned counsel for the petitioner seeks permission to withdraw the instant petition with liberty to avail alternative remedy available to him under the aforesaid statute.
7. Dismissed as withdrawn with liberty aforesaid.
8. Pending application(s), if any, shall also stand disposed of.

(SUDHIR SINGH)
JUDGE

(HARSH BUNGER)
JUDGE

March 22, 2024

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No