

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-21103-2024 (O/M)

Date of decision : 02.09.2024

Kuldeep Kumar

..... Petitioner

Versus

The Commissioner, Karnal Division, Karnal and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Vijay Kumar Jindal, Senior Advocate with
Mr. Akshay Jindal and Mr. Vijayveer Singh, Advocates
for the petitioner.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Kuldeep Kumar) has filed the instant civil writ petition under Article 226 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 14.08.2024 (Annexure P-1), passed by the learned Divisional Commissioner, Karnal Division, Karnal, whereby the stay application alongwith appeal (Appeal No. 509 dated 14.08.2024), filed by the petitioner against his suspension order dated 26.07.2024 (Annexure P-5), has been dismissed.

2. Learned senior counsel for petitioner, while referring to suspension order dated 26.07.2024 (Annexure P-5), submits that concededly, two matriculation certificates were there as regards the petitioner, who had contested elections for the post of Sarpanch of village Kalkha, Block Matlauda, District Panipat and both the matriculation certificates depict different dates of birth of the petitioner i.e. 09.09.1988 and 09.09.1997. He further submits that the case of the petitioner would fall under Section 187(1)(h) of Haryana Panchayati Raj Act, 1994 (in short '1994 Act'), which provides for offence and penalties under the 1994

Act. The said provision provides that a person shall be guilty of an offence, if at any election he makes false declaration or submits false contents in the affidavit or conceals any information, as the case may be, at the time of filing nomination. It is further submitted that till date no prosecution has been launched so far as the petitioner is concerned and consequently, no case of suspension of the petitioner is made out in terms of Section 51 of 1994 Act.

3. Notice of motion.

4. In pursuance to the advance copy of the petition having been served upon the State, Ms. Upasana Dhawan, AAG Haryana, appears and accepts notice on behalf of respondent-State. Learned State counsel has not disputed the fact that till date no prosecution has been launched against petitioner under Section 187 (1) (h) of 1994 Act. Learned State counsel has further failed to point out as to under which provision of Section 51 of 1994 Act, the order of suspension of petitioner can be sustained.

4.1 At this stage, learned State counsel, on instructions from Mr. Sant, Assistant District Attorney, O/o Commissioner, Karnal Division, Karnal, submits that the appeal filed by the petitioner against his suspension order is pending consideration before the Commissioner, Karnal Division, Karnal on 05.09.2024 and that the matter would be finally adjudicated by the appellate authority on the said date.

5. Considering the submissions made by learned counsel for respective parties and also considering the fact that the matter is pending consideration before the appellate authority on 05.09.2024 as regards the challenge to the suspension order of the petitioner is concerned, it would be in the fitness of the things that the order of suspension of the petitioner is

stayed till final decision of the appeal, which is stated to be pending before the appellate authority on 05.09.2024. It is further directed that the above referred appeal be decided by the concerned Appellate Authority on the date already fixed before it i.e. 05.09.2024 and in any case not beyond two weeks thereof, by passing a speaking order in accordance with law, after affording due opportunity of hearing to all concerned.

- 6. The instant civil writ petition is accordingly disposed of.
- 7. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

02.09.2024
sjks

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