

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-68-2024 (O/M)

Reserved on : 31.01.2025

Date of decision : 30.04.2025

Manoj Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. P.K. Ganga, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG Haryana.

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HARSH BUNGER, J.

1. Petitioner (Manoj Kumar) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 26.07.2023 (Annexure P-9), passed by learned Deputy Collector, Sirsa, whereby the petitioner has been removed from the post of Sarpanch of Gram Panchayat Chilkani Dhab, Tehsil and District Sirsa.

1.1 A further prayer has been made for setting aside the order dated 15.12.2023 (Annexure P-15), passed by the learned Commissioner, Hisar Division, Hisar (in short 'Divisional Commissioner'), whereby an appeal filed by the petitioner against order dated 26.07.2023 (Annexure P-9), has been dismissed.

2. Briefly, the petitioner (Manoj Kumar) was elected as a Sarpanch of Gram Panchayat Chilkani Dhab, Tehsil and District Sirsa, in

the panchayat elections held in the State of Haryana on 12.11.2022 and thereafter, the petitioner took oath of the office of Sarpanch on 03.12.2022.

2.1 It appears that respondent No. 4-Block Development and Panchayat Officer, Ellenabad, issued a letter dated 09.12.2022 (Annexure P-2) observing that the Council of Open School Education, Rajasthan, was not recognized board and falls in the list of fake board/schools, therefore, the 10th class certificate of the petitioner is a fake.

2.2 Upon learning about the aforesaid letter dated 09.12.2022 (Annexure P-2), petitioner submitted a representation dated 13.12.2022 (Annexure P-7) to the learned Deputy Commissioner, Sirsa, explaining his position that he had appeared in the examination held in May, 2018 under roll No. 10129493 and passed the said examination with second division and thereafter the migration certificate was issued on 22.08.2018. It was asserted that all the documents are fair and genuine, accordingly, the petitioner asked for the proper verification of the documents done before taking any adverse action against him.

2.3 Simultaneously, the petitioner also approached this Court by filing a writ petition (CWP-29725-2022) seeking setting aside of the letter dated 09.12.2022 (Annexure P-2), however, the same was dismissed as withdrawn, vide order dated 24.01.2023 (Annexure P-8) with liberty to the petitioner to take all the pleas in the proceedings that may be initiated against him.

2.4 It transpires that the learned Deputy Commissioner, Sirsa, vide order dated 26.07.2023 (Annexure P-9), removed the petitioner from

the post of Sarpanch on the ground that the petitioner contested the election on the basis of fake educational certificate and, therefore, he was ineligible under Section 175 (v) of Haryana Panchayati Raj Act, 1994 (in short '1994 Act').

2.5 Feeling aggrieved against the order dated 26.07.2023 (Annexure P-9), the petitioner preferred an appeal before learned Divisional Commissioner, which was dismissed, vide order dated 15.12.2023 (Annexure P-15) by holding that the 10th class certificate presented by the petitioner at the time of filing his nomination papers was not from any recognized board.

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition before this Court for the relief (s), as noticed hereinabove.

4. Heard.

5. Learned counsel for petitioner submits that the learned Deputy Commissioner, Sirsa as well as learned Divisional Commissioner have erred in law and facts in passing the impugned orders. It is submitted that the 10th class certificate of the petitioner issued by the Council of Open School Education, Rajasthan is recognized by the Government of India as well as by the Government of Rajasthan, which is equivalent to the certificate issued by the other Boards/States. It is further submitted that the petitioner has been targeted by the losing candidates in the panchayat elections on account of political reasons. It is asserted that the documents submitted by the petitioner at the time of filing his nomination papers are genuine and other students holding similar certificate(s) have been given admission for higher education and

have also been offered jobs on the basis of similar certificate(s) submitted by the petitioner, accordingly, the certificate submitted by the petitioner at the time of his nomination papers cannot be declared to be fake. It is also submitted that in case the certificate submitted by the petitioner at the time of his nomination is fake, then the proper remedy for any aggrieved party was to file election petition, which is not the case in hand. It is next submitted that the learned Deputy Commissioner, Sirsa has proceeded to remove the petitioner from the post of Sarpanch without affording him any opportunity of hearing and without holding proper regular inquiry, which is not tenable in law. It is still further submitted that at the time when the petitioner passed his 10th class from the Council of Open School Education, Rajasthan, the said board was not in the list of fake boards and the Council of Open School Education, Rajasthan has been shown in the list of fake boards only in the year 2022. Accordingly, prayer has been made for setting aside the impugned orders.

6. In response to the aforesaid submissions raised on behalf of the petitioner were opposed by learned counsel appearing for respondents by submitting that on 23.11.2022, an application was received from one Parhlad son of Shri Mani Ram of village Chilkani Dhab, wherein it was alleged that the petitioner herein had filed nomination papers for the post of Sarpanch by attaching fake 10th standard certificate, issued by the Council of Open School Education, Rajasthan. It is submitted that the aforesaid complaint against the petitioner was got inquired into from the Sub Divisional Officer (C), Ellenabad, who submitted his inquiry report, vide letter dated 07.03.2023 (Annexure R-2) with the observation that the institute is fake and the educational certificate issued by this institute is

also fake. It is next submitted that since the petitioner did not have requisite educational qualification at the time of election, therefore, he incurred disqualification as provided under Section 175 (v) of 1994 Act. Accordingly, a show cause notice dated 21.03.2023 was issued to the petitioner, however, no reply to the said show cause notice was given by the petitioner within the prescribed time and thereafter, the learned Deputy Commissioner, Sirsa, afforded opportunity of personal hearings to the petitioner on 20.04.2023, 04.05.2023 and 30.05.2023, however, the petitioner remained absent on one pretext or the other on every date. It is stated that the petitioner finally appeared on 15.06.2023 before the learned Deputy Commissioner, Sirsa and submitted reply to the show cause notice. Since the petitioner failed to submit any evidence/proof as regards his educational qualification, accordingly, he was removed from the post of Sarpanch, vide order dated 26.07.2023 (Annexure P-9) and even his appeal was dismissed by learned Divisional Commissioner, vide order dated 15.12.2023 (Annexure P-15). With the aforesaid submissions, prayer has been made for dismissal of the instant writ petition.

7. Heard.

8. In the present case, the petitioner contested the elections of Sarpanch of Gram Panchayat Chilkani Dhab. At the time of filing the nomination papers, petitioner submitted 10th class certificate, issued by Council of Open School Education, Rajasthan (Annexure P-3). Subsequently, on the basis of a complaint submitted by one Parhlad, the matter was got inquired into by the learned Deputy Commissioner, Sirsa from Sub Divisional Officer (Civil), Ellenabad, who submitted his report

dated 07.03.2023 by observing that the certificate of educational qualification issued by the Council of Open School Education, Rajasthan, is fake. On the basis of the aforesaid inquiry report, learned Deputy Commissioner, Sirsa, passed an order dated 26.07.2023 (Annexure P-9), removing the petitioner from the post of Sarpanch.

9. Here, it would be apposite to make a reference to the inquiry report dated 07.03.2023, the relevant extracts of which read as under :-

“ In the matter under consideration, the Block Development and Panchayat Officer, Ellenabad observed the investigation of the 10th class certificate submitted by Shri Manoj Kumar Sarpanch Gram Panchayat Chilkani Dhab in his nomination form by the District Education Officer, Sirsa through his letter No. Steno 2-22/805 dated 09.12.2022, which was conducted by the Block Development and Panchayat Officer, Ellenabad, in which as per the letter No. 73/Senior Secondary dated 24.03.2022 of the Secretary Haryana Board of School Education, Bhiwani by the District Education Officer, Sirsa, his Council of Open School Education, Suratgarh Rajasthan has been shown in the list of fake boards, in which the 10th class certificate presented by Shri Manoj Kumar Sarpanch Gram Panchayat Chilkani Dhab from Council of Open School Education Suratgarh Rajasthan has been declared fake. In view of the police station of the applicant, this office's letter No. 422/EC dated 25.01.2023 was written to the Education Officer to clarify the status of the statements of the applicant, in response to which the District Education Officer, Sirsa's letter No. Steno 2-23/28 dated 05.01.2023 states that the claim of Shri Manoj Kumar, newly appointed Sarpanch Gram Panchayat Chilkani Dhab resident of village Chiklani Dhab Tehsil Ellenabad District Sirsa that at the time of 10th

examination passed by him in the year 2018, the concerned board was not included in the list of fake boards – it is written that no such document is available in this office on the basis of which the above verification can be done.

Thus, the applicant was given sufficient opportunity to present his side in which the applicant could not present any concrete proof regarding the validity of his 10th class certificate whereas in the above mentioned letter by District Education Officer, Sirsa, it has been clearly stated that the 10th class certificate presented by Shri Manoj Kumar Sarpanch Gram Panchayat Chilkani Dhab in the nomination form was not valid. It has been declared fake. As a result, on the basis of the report of Block Development and Panchayat Officer, District Education Officer Sirsa, a certificate of technical qualification is issued to Shri Manoj Kumar Sarpanch Chilkani Dhab.

After this, it was written to send a report with clear comments by sending a letter number 85/Panchayat-2023 / Election dated 30.1.2023 of your office. The report was sent by letter number 426/EC dated 07.02.2023 of this office. In which after closely examining all the documents presented in the file, it was found that it is not clear whether the certificate of educational qualification of class 10th presented by the applicant is valid or not. In this regard, it would be appropriate to take action from Haryana School Education Board, Bhiwani and the concerned Board of Educational qualification of the candidate regarding the 10th class certificate of Shri Manoj Kumar, newly elected Sarpanch, Gram Panchayat village Chalkani Dhab Block Ellenabad.

After this, by sending letter number 135 / Panchayat-2023/Election/dated 20.02.2023 from your office, it was written to get the educational qualification verified at your level and send the investigation report alongwith comments. After which a report was taken in this regard

from the Superintendent of Haryana School Education Board, Bhiwani and Block Education Officer, Ellenabad.

Secretary, Haryana Board of School Education, Bhiwani has reported by his office letter No. 1083/EW/A-3 dated 23.02.2023 that no examination conducted by any board named “Council of Open School Education, Rajasthan (Suratgarh)” is recognized as equivalent to any examination conducted by Haryana Board of School Education, Bhiwani nor is included in the equivalence list. It is a fake board. The equivalence list is available on the Board website www.beeh.org.in. The name of the abovementioned board earlier has been removed from this board and now the name of the board is registered in the list of fake boards.

Block Education Officer, Ellenabad has reported by his office letter No. Account-2-23/100 dated 07.03.2023 that the Chief Block Education Officer Suratgarh, District Sri Ganganagar (Rajasthan) and according to the information given by District Sri Ganganagar Rajasthan, the concerned institution has not been found as per the Open School Education Council, Suratgarh District Sri Ganganagar Rajasthan spot report. Also, as per the list issued by District Education Officer Sirsa and Secretary Haryana School Bhiwani, the said council has been declared fake. On the basis of the above spot report, the above mentioned institution is fake and the mark sheet issued by it should also be considered fake.

Thus, as per the report of Secretary, Haryana Board of School Education, Bhiwani, Counsel of Open School Education, Rajasthan (Suratgarh) No examination conducted by any board by the name of Council of Open School Education, Rajasthan (Suratgarh) is recognized as equal to any examination conducted by Haryana Board of School Education, Bhiwani, nor is it included in the

equivalence list and as per the report of Block Education Officer, Ellenabad and the report of Chief Block Education Officer, Suratgarh District Sri Ganganagar, Rajasthan, the concerned institute was not found on the spot.

Therefore, on the basis of the reports of Secretary, Haryana School Education Board, Bhiwani, District Education Officer, Sirsa and Block Education Officer, Ellenabad, the above mentioned institute is fake. According to this, the certificate of education qualification issued by the said institute is fake. The report is sent to your service for further necessary action.”

9.1 A perusal of the above extracted inquiry report would suggest that no observation has been made as regards the plea of the petitioner that at the time when he had passed 10th class in the year 2018, the Council of Open School Education, Rajasthan was not declared as a 'fake institute'. Although, the aforesaid contention of the petitioner finds mentioned in the inquiry report and the only observation forthcoming is that no examination was conducted by the board, namely, Council of Open School Education, Rajasthan, which is recognized as equivalent to any examination conducted by Haryana Board of School Education, Bhiwani nor the same is included in the equivalence list, therefore, the same is a fake board. It is further mentioned that as per the report of Chief Block Officer, Suratgarh, District Sri Ganganagar, Rajasthan, the concerned institute was not found at the spot.

9.2 Having considered the inquiry report, I am of the considered view that no definitive finding has been returned either in the inquiry report or in any of the orders passed by the learned Deputy Commissioner, Sirsa or learned Divisional Commissioner that the Council of Open School Education, Rajasthan was not a recognized or

was a fake institute even at the time when the petitioner had cleared his class 10th examination in May, 2018.

9.3 Furthermore, the requirement of Section 175 (v) of 1994 Act is whether the matriculation certificate put-forth by a candidate is recognized by any institution/board. It is not necessary that such recognition must be by a local board or institution in the State of Haryana only. Even if the matriculation certificate is issued by any institution/board from any other State, it would serve the purpose.

10. Apparently, in the absence of any finding that in May, 2018 when the Council of Open School Education, Rajasthan, had issued matriculation certificate to the petitioner, at that time also the said institute was a fake and/or the matriculation certificate put-forth by the petitioner is not recognized by any institution/board from any other State in India, the order dated 26.07.2023 (Annexure P-9), passed by learned Deputy Commissioner, Sirsa and order dated 15.12.2023 (Annexure P-15), passed by learned Divisional Commissioner, cannot be sustained and the same are hereby set aside.

11. The writ petition is accordingly disposed of with a direction to learned Deputy Commissioner, Sirsa to inquire into the complaint submitted against the petitioner on following two issues :-

- (i) whether in May, 2018, when the matriculation certificate was issued to the petitioner, at that time, Council of Open School Education, Rajasthan was declared a fake institute ; and
- (ii) whether the matriculation certificate produced by the petitioner at the time of contesting election to the post of Sarpanch is recognized by any institution/board.

11.1 Let the aforesaid inquiry be got conducted by learned Deputy Commissioner, Sirsa in accordance with law after associating the petitioner and by affording due opportunity of hearing to all concerned parties and fresh orders be passed within a period of three months from the date of receipt of certified copy of this order.

12. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

30.04.2025
sjks

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