

2025:PHHC:109053



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

(1)

CWP-10210-2024 (O&M)
Date of decision :22.08.2025

NISHA

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

(2)

2025:PHHC:109026



CWP-17624-2024 (O&M)
Date of decision :22.08.2025

NISHA

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Vikram Singh, Advocate
Mr. Saleem Ahmed, Advocate
for the petitioner.

Mr. S.K. Panwar, Addl. A.G., Haryana.

HARSH BUNGER, J.

This order shall dispose of **CWP-10210-2024** titled as
Nisha vs State of Haryana and others as well as **CWP-17624-2024** titled

as *Nisha vs State of Haryana and others*, as both the cases involve common questions of law and facts.

2. Prayer in **CWP-10210-2024** titled as *Nisha vs State of Haryana and others*, is for issuance of a writ in the nature of *certiorari* for setting aside the order dated 16.03.2024 (Annexure P-6) passed by the learned Deputy Commissioner, Palwal; whereby, the petitioner has been removed from the post of *Sarpanch*.

2.1 A further prayer has been made for setting aside the order dated 10.04.2024 (Annexure P-8) passed by the learned Commissioner, Faridabad Division, Faridabad; whereby, an appeal filed by the petitioner against order dated 16.03.2024 (Annexure P-6) passed by the learned Deputy Commissioner, Palwal, has been dismissed.

3. Prayer in **CWP-17624-2024** titled as *Nisha vs State of Haryana and others*, is for issuance of a writ in the nature of *mandamus* for directing the respondents to consider the 10th Class Certificate of *Urdu Education Board*, as recognized for the purposes of educational qualification, of the petitioner.

4. For the sake of convenience, the facts are being derived from **CWP-10210-2024** titled as *Nisha vs State of Haryana and others*.

5. Succinctly, the petitioner was elected as the *Sarpanch* of Gram Panchayat, Alik, Block Palwal, District Palwal in the year 2022. It appears that one Utkarsh (respondent No.9), submitted a complaint against the petitioner alleging that at the time of contesting election, the petitioner-Nisha had shown her educational qualification as 10th Class pass from *Urdu Education Board, Delhi*, whereas, the said Board is not recognized by the Haryana Education Board.

5.1 It appears that on the basis of the afore-said complaint submitted by respondent No.9, report was sought from the Haryana Education Board, Bhiwani; whereupon, the report dated 06.06.2023 (Annexure P-2) was submitted by the District Education Officer, Palwal, stating that any educational certificate granted by the *Urdu Education Board, Delhi* is neither equivalent to any examination conducted by the Haryana School Education Board nor the same is included in the equivalency list. However, it was further indicated that it is only the State Election Commission, Panchkula, who can tell as to whether anyone can contest the election of *Panch/Sarpanch*, in the State of Haryana, on the basis of educational certificate issued by the *Urdu Education Board, Delhi*.

5.2 It further appears that a Show Cause Notice was issued to the petitioner, to which, she submitted her reply dated 21.07.2023 (Annexure P-3), wherein, it was *inter alia* stated by the petitioner that she had appeared for the 10th Class examination from the *Urdu Education Board* in the year 2020 and upon verification of the same, the District Education Officer, Palwal had stated that the said Board was not recognized by the Haryana School Education Board; however, it was also written that only the State Election Commission can tell as to whether any person, having the educational certificate from the afore-said Board, can contest the election to the post of *Panch/Sarpanch* in the State of Haryana. It was further stated that the District Education Officer, had nowhere stated that the certificate issued by the *Urdu Education Board, Delhi* was fake.

5.3 Another plea raised by the petitioner was that as per the provisions contained in Section 175(v) of the Haryana Panchayati Raj Act, 1994 (for short 'the 1994 Act'), the minimum educational qualification required for contesting election for a woman candidate was only middle

(8th) pass and therefore, she also submitted documents as regards the same and accordingly prayed that the Show Cause Notice may be withdrawn.

5.4 It transpires that thereafter, the documents submitted by the petitioner in respect of her Class 8th were also got verified by constituting a Committee of three officers, who vide their report dated 15.03.2024 (Annexure P-4) stated that the certificate of Class 8th, as submitted by the petitioner, was fake.

5.5 The learned Deputy Commissioner, by placing reliance upon the investigation report as regards the educational qualification of the petitioner, came to the conclusion that the 10th Class certificate as well as the 8th Class certificate of the petitioner are fake and accordingly, vide order dated 16.03.2024 (Annexure P-6), the learned Deputy Commissioner, Palwal removed the petitioner from the post of *Sarpanch*.

5.6 Feeling aggrieved against the order dated 16.03.2024 (Annexure P-6), the petitioner preferred an appeal before the learned Commissioner, Faridabad Division, Faridabad; however, the same was also dismissed vide order dated 10.04.2024 (Annexure P-8).

5.7 In the afore-mentioned facts and circumstances, the present writ petition has been filed before this Court, for the relief, as noticed here-in-above.

6. Learned counsel for the petitioner submits that the allegation against the petitioner was that she does not hold the minimum educational qualification for contesting the election to the post of *Sarpanch* as envisaged under Section 175(v) of the 1994 Act. It is submitted that the above-referred Section 175(v) of the 1994 Act envisages that the man ordinarily aspiring for the post of *Sarpanch*, must have passed a matriculation examination or its equivalent from a recognized

Institution/Board and in the case of a woman and a Scheduled Caste candidate, the minimum educational qualification is middle pass. It is further submitted that as per the afore-said Section 175(v) of the 1994 Act, it is not necessary that the minimum educational qualification must be recognized by a local Board or Institution, in the State of Haryana only as the said qualification can be recognized by any Institution/Board from any other State as well. It is stated that the afore-said aspect has not been considered by the authorities below and therefore, the impugned orders are unsustainable in the eyes of law and are liable to be set aside.

7. Per contra, the learned State counsel has opposed the submissions made on behalf of the petitioner by submitting that not only the matriculation certificate but also the middle class certificate submitted by the petitioner were found to be fake and therefore, she was ineligible to contest the election of *Sarpanch* and she has been rightly removed from the post of *Sarpanch*. Accordingly, prayer has been made for dismissal of the writ petition.

8. Heard.

9. The controversy involved in this case revolves around the true intent and import of Section 175(v) of the 1994 Act, which sets out disqualification in relation to various posts, including Sarpanch.

9.1 Section 175(v) of the 1994 Act reads as under :-

“175. No person shall be a Sarpanch, or a Panch of a Gram Panchayat or a member of Panchayat Samiti or Zila Parishad or continue as such, who

(a) to (u) xxx xxx xxx

(v) has not passed matriculation examination or its equivalent examination from any recognized institution/board:

Provided that in case of a woman candidate or a candidate belonging to Scheduled Caste, the minimum qualification shall be middle pass:

Provided further that in case of a woman candidate belonging to Scheduled Caste contesting election for the post of Panch, the minimum qualification shall be 5th pass;”

9.2 The afore-said Section 175(v) of the 1994 Act was considered by this Court in ***Civil Writ Petition No. 21057 of 2016 titled as “Ramesh Kumar versus State of Haryana” (decided on 18.03.2020)***, wherein it was held as under:-

“The petitioner is a resident of Village Bohli, Post Office Kabri, Tehsil Madlauda, District Panipat. He is aggrieved by the order dated 20.08.2016 passed by the Deputy Commissioner, Panipat, upon his petition against the Sarpanch of the Gram Panchayat of the said village, the 6th respondent herein. The complaint of the petitioner was that the 6th respondent suffered disqualification to hold the post of Sarpanch as his Matriculation certificate was not genuine. The petitioner pointed out that the 6th respondent claimed to have passed his Matriculation course from Takshila College, Karnal, but as per his information, there was no such college in existence. He further asserted that the Bhartiya Shiksha Parishad, Uttar Pradesh, which was stated to have issued the subject Matriculation certificate was not recognized by the Council of Boards of School Education, New Delhi. The petitioner therefore wanted action to be taken by the authorities under Section 51 of the Haryana Panchayati Raj Act, 1994 (hereinafter, 'the Act of 1994'), for removal of the 6th respondent from office. However, by the impugned order dated 20.08.2016, the Deputy Commissioner, Panipat, opined that as the status of Bhartiya Shiksha Parishad, Uttar Pradesh, was sub judice before the civil Court, no action could be taken at this stage and deferred the matter on that ground.

Before adverting to the factual aspects of the case, it would be appropriate to consider the statutory scheme

of the Act of 1994 in this regard. Section 51 thereof deals with suspension and removal of a Sarpanch/Panch. Section 51(3)(b) states to the effect that the Director or the Deputy Commissioner may remove a Sarpanch or Panch from office after following the due procedure if he was disqualified to be a member of the Gram Panchayat at the time of his election. Section 175 of the Act of 1994 sets out the disqualifications in relation to various posts, including that of a Sarpanch. Section 175(v) postulates that, generally, a male candidate who has not passed Matriculation examination or its equivalent examination from any recognized Institution/Board shall not be a Sarpanch or a Panch. Therefore, any man ordinarily aspiring to the post of Sarpanch must have passed Matriculation examination or its equivalent from a recognized Institution/Board. Be it noted that, in terms of this restriction, it is not necessary that such recognition must be by a local Board or Institution in the State of Haryana only and even if the Matriculation certificate is recognized by any Institution/Board from any other State, it would suffice.

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...In terms of Section 175(v) of the Act of 1994, what is required is that the 6th respondent's Matriculation certificate must be recognized by any Institution/Board. Though the petitioner seems to have inquired as to the status of the Bhartiya Shiksha Parishad in this regard with the Council of Boards of School Education, New Delhi, there is no material to support his contention that every institution in the country which offers Matriculation course would invariably have to be recognized by this Council. When the statutory provision merely requires recognition by any Institution/Board, it was for the authorities concerned to verify, as a matter of fact, whether such recognition was conferred upon the institution which issued the Matriculation certificate. Admittedly, no such exercise was undertaken by the Deputy Commissioner, Panipat, to ascertain whether the Matriculation certificate secured by the 6th respondent from

Bhartiya Shiksha Parishad, Uttar Pradesh, was recognized by any Institution or Board in the State of Uttar Pradesh or from elsewhere. Without inquiring into this aspect and losing sight of the limited scope of the pending litigation before the trial Court, the Deputy Commissioner, Panipat, abdicated his statutory function and power under Section 51(3) of the Act of 1994 and unnecessarily deferred the matter.

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The writ petition is accordingly allowed to the extent of directing the Deputy Commissioner, Panipat, to inquire into the matter on merits, in terms of the observations made hereinbefore, and take a reasoned decision thereafter, on facts and in accordance with law. This exercise shall be completed expeditiously and in any event, not later than eight weeks from the date of receipt of a copy of this order...

9.3 The aforesaid order dated 18.03.2020 passed in case of ***Ramesh Kumar (supra)*** was challenged by way of an intra-court appeal before a Division Bench of this Court in ***Vikram Singh v. Ramesh Kumar, 2020 AIR (P&H) 150***; wherein the judgment in case of ***Ramesh Kumar (supra)*** was upheld by observing as under:

“5. Before dwelling upon the merits of the case, it would be appropriate to consider the statutory scheme of the 1994 Act in this regard. Section 51 thereof deals with suspension and removal of a Sarpanch or a Panch from office. Section 51(3)(b) of the 1994 Act postulates that the Director or the Deputy Commissioner may remove a Sarpanch or a Panch from office after following the due procedure if he was disqualified to be member of the Gram Panchayat at the time of his election. Section 175(v) of the 1994 Act sets out the disqualifications in relation to various posts, including that of a Sarpanch. It provides that, generally, a male candidate, who has not passed Matriculation examination or its equivalent examination from any recognized Institution/Board, shall not be a Sarpanch or a Panch. Therefore, any male ordinarily

aspiring to the post of a Sarpanch must have passed Matriculation examination or its equivalent from a recognized Institution/Board. Be it noted that, in terms of that restriction, it is not necessary that such recognition must be by a local Board of Institution in the State of Haryana only and even if the Matriculation certificate is recognized by any Institution/Board from any other State, it would serve the purpose.

6. In the present case, the appellant claimed to have passed his Matriculation course from Takshila College, Karnal, which has now been renamed as Manas Sanskrit Maha Vidyalaya/Manas Model Senior Secondary School, Karnal and is under the control of the Bhartiya Shiksha Parishad, Uttar Pradesh. The said Bhartiya Shiksha Parishad, Uttar Pradesh, offers courses not only at the Matriculation level but also up to higher studies and a litigation arose between Bhartiya Shiksha Parishad, Uttar Pradesh and the University Grants Commission, New Delhi, by way of a civil suit in RS No.336 of 1998, which was pending in the Court of Civil Judge (Junior Division), South Lucknow.

7. A careful perusal of the plaint of said suit makes it evidently clear that Bhartiya Shiksha Parishad, Uttar Pradesh, claimed to be a Society registered under the provisions of the Societies Registration Act, 1860, and its aim was to provide education to the general public. Bhartiya Shiksha Parishad, Uttar Pradesh never claimed either to be a University or affiliation to a University and its grievance was that the University Grants Commission, New Delhi, was brandishing it to be a fake University. In this backdrop, a declaration has been sought that it was not claiming to be a University but only a registered Society, promoting education amongst the common people in accordance with the standard and norms settled by itself and consequently it was issuing its own certificates to the successful candidates. It was only on account of the pendency of the aforesaid civil suit, the Deputy Commissioner, Panipat,

has deferred consideration of the petitioner's claim against the appellant.

8. Coming to first submission of counsel, the learned Single Judge, while disagreeing with the submission, has observed that the writ petition was pending consideration before this Court since October, 2016 and, therefore, it would not be proper to non-suit the petitioner at this stage on the ground of availability of an effective alternative remedy. Learned Single Judge has further observed that be it noted that the said doctrine does not postulate a straitjacketed formula and it would be well within the discretion of this Court to entertain a writ petition notwithstanding the availability of an alternative remedy.

9. We are in total conformity with the observations of the learned Single Judge. From the impugned order, it was crystal clear that there was no proper application of mind and the Deputy Commissioner, Panipat, without going into the merits of the case before it, decided it merely as per the directions of this Court contained in the order dated 20.05.2016 passed in CWP No.10127 of 2016. The pending litigation pertains to the status of Bhartiya Shiksha Parishad, Uttar Pradesh, vis-à-vis the University Grants Commission, New Delhi. The said Commission is only concerned with education at the University level and not at Matriculation level. Therefore, the pendency of said civil suit, which obviously, has reference to the graduation degrees etc. offered by the Bhartiya Shiksha Parishad, Uttar Pradesh, has no impact on the validity or otherwise of the Matriculation certification in question. Otherwise also, there is no material to support this submission that every institution in the country which offers Matriculation Course would invariably have to be recognized by the Council of Boards of School Education. When the statutory provision merely require recognition by any Institution/Board, it was for the authorities concerned to verify, as a matter of fact, whether such recognition was conferred upon the institution which issued the Matriculation certificate. However, no such exercise

was undertaken by the Deputy Commissioner, Panipat to ascertain whether Matriculation Certificate secured by the appellant from Bhartiya Shiksha Parishad, Uttar Pradesh, was recognized by any Board/Institution in the State of Uttar Pradesh or from elsewhere...”

10. From the afore-said judicial pronouncements, it is clear that the disqualification envisaged under Section 175(v) of the 1994 Act, is attracted in case, the person aspiring to be a *Sarpanch or Panch* of a Gram Panchayat, has not passed matriculation examination or its equivalent examination from any recognized Institution/Board. The requirement of Section 175(v) of the 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 recognized by any Institution/Board from any other State, it would serve the purpose.

11. In the instant case, it is not forthcoming either from the Investigation reports dated 06.06.2023 (Annexure P-2); 15.03.2024 (Annexure P-4) and also the impugned orders dated 16.03.2024 (Annexure P-6) and 10.04.2024 (Annexure P-8) that the matriculation certificate produced by the petitioner while contesting for the post of *Sarpanch* has been verified to be recognized by any Institution/Board, may be of any other State.

12. In view of what has been stated above, in my considered view, the impugned orders dated 16.03.2024 (Annexure P-6) and 10.04.2024 (Annexure P-8) are unsustainable and the same are, accordingly, set aside. The writ petition is, accordingly, disposed of with a direction to the learned Deputy Commissioner, Palwal to conduct a fresh enquiry into the complaint

submitted against the petitioner as regards her educational qualification and to examine the issue as to whether the matriculation certificate and/or the middle class certificate produced by the petitioner, is recognized by any Institution/Board, may be of any other State as well. Let the afore-said enquiry be conducted in accordance with law after affording due opportunity of hearing to all concerned. It is further directed that the afore-said enquiry be completed within a period of three months from the date of receipt of certified copy of this order.

13. So far as CWP-17624-2024 (O&M) is concerned, in view of the order passed here-in-above in CWP-10210-2024 titled as *Nisha vs State of Haryana and others*, since the impugned orders whereby, the petitioner was removed from the post of *Sarpanch* has been set aside and the matter has been remitted to the learned Deputy Commissioner, Palwal to examine the issue as to whether the matriculation certificate produced by the petitioner from the *Urdu Education Board, Delhi*, has been recognized by any Institution/Board, may be of any other State, no further orders are required to be passed in the present writ petition and the same is also accordingly disposed of.

14. All pending application/s, if any, shall also stand closed.

15. A photocopy of this order be placed on the file of another connected case.

August 22, 2025
gurpreet

(HARSH BUNGER)
JUDGE

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