



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

CWP-11220-2024 (O&M)
Date of decision :22.08.2025

RUKSAR

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

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

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

HARSH BUNGER, J.

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for setting aside the order dated 01.02.2024 (Annexure P-3) passed by the learned Deputy Commissioner, Nuh, District Nuh; whereby, the petitioner has been removed from the post of *Sarpanach* of Gram Panchayat Salahka, Tehsil Tauru, District Nuh and order dated 30.04.2024 (Annexure P-4) passed by the learned Divisional Commissioner, Faridabad Division Faridabad, District Faridabad; whereby the appeal filed by the petitioner against the afore-said order dated 01.02.2024 (Annexure P-3), has been dismissed.

2. Briefly, the petitioner was elected as Sarpanch of Gram Panchayat, Village Salahka, in the year 2022. Thereafter, one Nazia, wife of Mustafa, who had also contested against the petitioner and lost the

election, lodged a complaint before the Deputy Commissioner, Nuh, alleging that the petitioner had suppressed her true date of birth and had falsely projected her age as 21 years in the nomination papers. It was pointed out that while the petitioner had relied upon a birth certificate showing her date of birth as 17.09.2001, her school records reflected dates of birth as 10.01.2002 and 01.01.2004. On receipt of the complaint, an enquiry was conducted by the Sub Divisional Officer (Civil), Tauru, who, vide report dated 01.12.2022 (Annexure-P-2), concluded that the birth certificate produced by the petitioner had been obtained in a collusive manner. Based on the said enquiry, a show cause notice dated 19.01.2024 was issued to the petitioner. After considering petitioner's reply and the material on record, the Deputy Commissioner, vide order dated 01.02.2024 (Annexure P-3), came to the conclusion that the petitioner had not attained the age of 21 years as required under Section 173 of the Haryana Panchayati Raj Act, 1994, and consequently ordered her removal from the post of Sarpanch. The appeal preferred by the petitioner before the Divisional Commissioner, Faridabad, was also dismissed on 30.04.2024 (Annexure P-4).

3. Learned counsel for the petitioner submits that the impugned orders are illegal and without jurisdiction. It is contended that the issue of eligibility or disqualification of an elected Sarpanch can only be adjudicated by way of an election petition under Section 176 of the 1994 Act, and not by the Deputy Commissioner under Section 51. It is further submitted that the petitioner had produced a valid birth certificate issued by the Registrar of Births and Deaths, showing her date of birth as 17.09.2001. The authorities, however, ignored this certificate and erroneously relied upon inconsistent school records. It is argued that the action is politically

motivated, as the complainant has already filed an election petition raising the same issues which are pending and therefore, the complaint proceedings before the Deputy Commissioner were not maintainable.

4. Per contra, learned State counsel submits that the enquiry conducted by the competent authority revealed multiple dates of birth of the petitioner in her school records, thereby casting serious doubt on the genuineness of the documents relied upon by her. The Deputy Commissioner, after affording due opportunity of hearing, rightly concluded that the petitioner was underage at the time of nomination, and her removal was therefore justified. The Divisional Commissioner has independently examined the matter and affirmed the findings. It is argued that the impugned orders are justified in the facts and circumstances of this case and the writ petition deserves dismissal.

5. Heard.

6. The question before this Court is as to whether the petitioner had attained the age of 21 years as envisaged under Section 173 of the 1994 Act, so as to be eligible to contest election to the post of Sarpanch of Gram Panchayat, Village Salahka ?

7. Here, it would be apposite to refer to Section 173 of the 1994 Act, which reads as under :-

“173. Persons qualified to vote and be elected.—(1) Every person whose name is in the list of voters shall, unless disqualified under this Act or any other law for the time being in force, be qualified to vote at the election of a Member for the electoral division to which such list pertains.

(2) Every person who has attained the age of twenty-one years and whose name is in the list of voters shall, unless disqualified under this Act or under any other law for the time

being in force, be qualified to be elected from any electoral division.

(3) No person whose name is not entered in the list of voters for the villages, shall be qualified to be elected from any electoral division thereof.

(4) Subject to any disqualification of a person the list of voters shall be conclusive proof for the purpose of determining under this section whether any person is or is not qualified to vote, or to be elected at any election, as the case may be.”

8. In the present case, the petitioner was elected as Sarpanch of Gram Panchayat, Village Salahka, however, upon a complaint filed by Nazia, wife of Mustafa, alleging that the petitioner had mis-stated her date of birth and was underage at the time of filing nomination papers, an enquiry was conducted by the Sub-Divisional Officer (Civil), Tauru. The enquiry officer, after examining the school admission registers and related documents vide enquiry report dated 01.12.2022(Annexure-P-2), recorded that the petitioner's date of birth had been reflected differently at different stages as under :-

(i) 10.01.2002 in the records of National Primary School, Salahka;

(ii) 01.01.2004 in the records of National High School, Tauru; and

(iii) 17.09.2001 in the records of Hind High School, Tauru, as also in the birth certificate subsequently produced.

8.1 On the basis of such inconsistencies, it was concluded that the birth certificate showing 17.09.2001 was procured collusively and could not be accepted as genuine. The relevant extract of the enquiry report dated 01.12.2022 (Annexure-P-2) reads as under:-

“After hearing all the concerned parties and observing the evidence/documents and statements present on the case, I have come to the conclusion that Ruksar daughter of Sumer took admission in Government primary School, Salhaka on

25.05.2007 and till 31.03.2012 she is studying in government primary school, Salhaka. After passing class five from government school, Salhaka Transfer certificate has been issued on 17.05.2012. In her statement, Ruksar herself has admitted that she has completed her primary education up to 5th standard from village Salhaka. Her date of birth is shown as 10.01.2002 in the records of Government Primary School, Salhaka. Subsequently, on the basis of this education, Ruksar took admission in Class VI in Government Girls Senior Secondary School, Tauru, in which at the time of admission, her date of birth has been recorded as 10.01.2002. After that, Ruksar again submitted an affidavit on 09.05.2017 in Government Girls Senior Secondary School, Tauru, and took admission in class 8 showing her date of birth as 01.01.2004. From perusal of the records of Government Girls Senior Secondary School, Tauru and Government Secondary School, Salhaka, it is clear that the date of birth of Ruksar is 10.01.2002, which has been registered by her father on the basis of an affidavit that her date of birth is 01.01.2004 while re-admission in Class VIII. During nomination, Ruksar has attached the certificate number 3922 issued from Hind High School Tauru regarding her education in which his date of birth is shown as 17.09.2001. In the transfer certificate number 43/2014-15 issued by Hind High School Tauru which on dated 10.04.2014, it is mentioned that Ruksaar took admission in Hind High School on 08.04.2011 and is studying till 31.03.2014. Have getting passed 8th class. Headmaster of Hind High School Tauru has shown Tamanna daughter of Anil in admission number 3922 dated 15.04.2011 under RTI and the teacher present on his behalf Mr. Ravi Shekhar has recorded in his statement that the name of Ruksaar is registered at number 3912 which has been shown by Maniram Clerk as serial number 3922 by mistake, whereas Ruksar has studied in village Salhaka till class 5th and in Government Girls Senior Secondary School Tauru till class 8th. According to the records of these schools, Ruksar's date of birth is

recorded as 10.01.2002. Later, during her admission in Class VIII, her father submitted an affidavit and got admission in Government Girls Senior Secondary School, Tauru, registering her date of birth as 01.01.2004. Apart from this, in the affidavit given by Ruksar's father Mr. Sumer Khan son of Mr. Chhatru resident of village Salhaka, Tehsil Tauru District Nuh on 30.04.2017, it is also written that the date of birth of their daughter Ruksar is 01.01.2004. It is clear from the record that she has passed class 5th while starting from 25.05.2007 to 31.03.2012, whereas as per the transfer certificate of Hind High School, she has taken admission in class 6th on 08.04.2011 till 31.03.2014. Have received education. When Ruksar was studying in Government Primary School Salhaka in Class 5 during 2011-12, which she herself admitted in her own words, how is her admission in Hind High School in Class 6 in 2010-11 shown is possible? Which clearly appears to have been prepared a fake record. Apart from this, the photo copy of the entry and exit register issued by the school which has been issued earlier with entry number 3920 to 3933, which is available on page number 77 of the investigation file, matches and actual register which has been presented by the school during the investigation, photocopy of which is available on page number 73 of the investigation file, but it is not matching. The page number is not recorded on the previously issued copy, a long circle is shown on number 3922 Tamanna and the seal of the school principal is placed in front of it, whereas on the actual register, page number 26-27 is recorded and there is no big circle and neither is Tamanna. There is some principal's stamp in front of the name. Ruksar's date of birth as per the certificate issued by him from Hind High School Tauru during the elections is dated 17.09.2001 appears to be a record prepared fraudulently in collusion. Therefore, while taking the following action against Ruksar's daughter Sumer, it is recommended to take the following action against Hindu High School Tauru in relation to preparing fake records. The report

has been sent to the service of Deputy Commissioner for further necessary action.”

9. Thereafter, the Deputy Commissioner, Nuh, after affording opportunity of hearing to the petitioner, passed a detailed order dated 01.02.2024 (Annexure P-3), whereby the petitioner was held to be disqualified from holding the office of Sarpanch on account of not having attained the requisite age as prescribed under Section 173 of the Haryana Panchayati Raj Act, 1994.

10. The order dated 01.02.2024 passed by the Deputy Commissioner, Nuh, was subsequently assailed by the petitioner by filing a statutory appeal before the Divisional Commissioner, Faridabad; however, the Appellate Authority, upon due consideration of the record and after affording an opportunity of hearing to the parties, dismissed the same vide order dated 30.04.2024 (Annexure P-4), by observing as under:-

“After carefully listening to the arguments of both the parties and carefully perusing the records of the lower authority, it was found that the Appellant had received education from class 1st to class 5th from the year 2007 to the year 2012 in Government Primary School, Salhaka Tehsil Tauru and date of birth was 01.01.2002, after this, she took admission in Government Girls Senior Secondary School, Tauru, in Class 6th on 18.05.2012 and due to long absence, her name was stuck off from the school from Class 8th on 22.08.2014.

Thereafter, in the same Government Girls Senior Secondary School, Tauru, the father of the appellant presented an affidavit dated 30.04.2017 and wrote that his daughter Ruksar (appellant) had not taken admission in any school till March 2015 and another affidavit dated 26.04.2014 in which it is written that his daughter Ruksar has passed class 7th in the year 2013-2014 and was studying at home and got admission in class 8th in the year 2017 and registered her date of birth as

01.01.2004. Further, on 02.04.2018, the appellant took admission in class 9th in the same school and got SRN in the board and got enrolled in the board. Whose number is 19-1-NU-289-0106 and date of birth is 01.01.2004. Apart from this, the applicant's Aadhaar card number 779126776451 in which his date of birth is 01.01.2004, as far as according to the date of birth mentioned in the birth certificate of the applicant is 17.09.2001, is concerned, it is not on the basis of birth event being registered at the time of birth, but it has been issued on the basis of her father's affidavit and the attestation of other Patwari, Nambardar, which is not reliable because the father of the appellant, Sumer Khan, has given the affidavit and mentioned different dates of birth as mentioned above. Apart from this, the District Registrar of Births and Deaths, Nuh, issued a certificate of non-availability of registering the birth event of the applicant.

Apart from this, on the basis of the affidavit of the appellant's father Sumer Khan, it has been stated that she was enrolled in class 6th in Hind High School Tauru in the year 2011. Affidavit dated 08.04.2011 in which it is mentioned that he has not taught his daughter Ruksar in any government/non-government institution and she should be admitted in class sixth. And the date of birth was mentioned as 17.09.2001. This also makes it clear that the father of the applicant has repeatedly concealed the facts and submitted affidavits to enrolled the applicant and further on this basis the date of birth was changed in PAN card/ Aadhaar card etc.

According to the above discussion, the Appellant has studied from class 1st to class 5th in Government Primary School Salhaka from the year 2007 to 2012 and on 18.06.2012, she took admission in class 6th in Government Girls Senior Secondary School, Tauru and due to non-attendance for long time her name was struck off from the school, while studying in class 8th, on 22.08.2014.

As mentioned above, on the basis of the affidavit of her father Sumer Khan, the Appellant again took admission in class 8th in

the year 2017 in the said Government Girls Senior Secondary School, Tauru and passed class 8th in the year 2017-18 where her date of birth is recorded as 01.01.2004. As far as the statement of the Appellant is concerned that she had taken admission in Class 6th from Hind High School, Tauru in the year 2011 and had passed Class 8th in the year 2014. If this is also accepted, then in the year 2017, she would again have to take admission in Class VIII in the year 2017 from the Government Girls Senior Secondary School, Tauru. There was no need to re-pass. Hind High School Tauru did not present the record of attendance register and transfer certificate of the appellant before the investigation committee and said that the record has been lost, which is suspicious. The date of birth of the applicant in class 1 as per Government primary School, Salhaka is 01.01.2002 and as per Government Girls Senior Secondary School, Tauru, date of birth is 01.01.2004 mentioned in the class 8 pass certificate. From the year 2007 to 31.03.2012, the Appellant was studying in the Government Primary School, Salhaka and from the year 18.05.2012 to 22.08.2014, and then from the year 2011 to the year 2014, she was studying in the Hind High School, it is impossible to do study in two schools at same time. From this it becomes clear that the date of birth of the applicant at the time of admission in first class is 10.01.2002, which is correct as per which she was not 21 years of age in the election year 2022 for the post of Sarpanch. Therefore, in a haste, with the collusion of Hind High School Tauru, she obtained the certificate of class 8th and got the date of birth mentioned as 17.09.2001.

Therefore, the prescribed age of the applicant at the time of nomination for the post of Sarpanch was not 21 years. Therefore falls in the category of ineligibility. The appeal is dismissed as no merit is found in the contentions of the petitioner and the appellate order is upheld. The order was pronounced and a copy of the order was sent along with the record to the lower authority.”

11. The material on record, including the school admission registers, revealed that there were three different dates of birth attributed to the petitioner, namely 10.01.2002, 01.01.2004, and 17.09.2001. This inconsistency itself undermines the authenticity of the documents relied upon by the petitioner. In *Nisva @ Nisha Khatoon, Sarpanch vs State of Haryana and others, 2024(4) RCR(Civil) 629*, by relying upon a judgment of this Court in case *Amit Chillar vs State of Haryana 2008(4) SCT 329*, it was held by this Court that a person cannot have multiple Dates of Birth. The above-referred judgment in case of *Nisva @ Nisha Khatoon (supra)* was upheld by the Division Bench of this Court in *LPA-1057-2024*, reported as *2025(3) RCR(Civil) 273*. Even further Special Leave to Appeal (C) No.14913 of 2025 has been dismissed by the Hon'ble Supreme Court of India vide order dated 21.05.2025.

11.1 The competent authority, after issuing notice and considering her reply, has recorded a categorical finding that the petitioner had not attained the requisite age. The appellate authority has also examined the issue threadbare and has upheld the order of removal by giving cogent reasons.

12. The contention of the petitioner that the Deputy Commissioner lacked jurisdiction in view of the pendency of an election petition is untenable. The petitioner, having participated in the proceedings under Section 51 of the Act, submitted her reply, and suffered an adverse order, cannot now be permitted to turn around and question the maintainability of such proceedings. It is well settled that objections as to jurisdiction must be raised at the earliest opportunity and cannot be permitted belatedly after participation in the proceedings.

13. Keeping in view the totality of the circumstances, it is manifest that the petitioner has failed to demonstrate that she was qualified to contest the election on the date of nomination. The impugned orders dated 01.02.2024 (Annexure-P-3) and 30.04.2024 (Annexure-P-4) are well reasoned, passed after affording opportunity of hearing, and suffer from no illegality warranting interference by this Court. The writ petition is wholly devoid of merit and is accordingly dismissed.

14. All pending applications (if any) shall also stand closed.

August 22, 2025
gurpreet

(HARSH BUNGER)
JUDGE

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