



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

CWP-13042-2024 (O&M)
Date of Decision: 10.02.2025

GURDEV SINGH

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Pankaj Nanhera, Advocate
Mr. Navneet Sharma, Advocate
and Mr. Rahul Gautam, Advocate
for the petitioner.

Mr. Randhir Singh, Addl. A.G., Haryana.

Mr. Rajeev Anand, Advocate
Mr. Ujwal Anand, Advocate
and Mr. Aryan Singh, Advocate
for respondent No.5.

HARSH BUNGER, J.

Petitioner (Gurdev Singh) has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of *certiorari* for setting aside the order dated 08.04.2024 (Annexure P-8) passed by the Deputy Commissioner, Fatehabad, District Fatehabad; whereby he was removed from the post of *Sarpanch* of Village Lamba, Tehsil Ratia, District Fatehabad.

A further prayer has been made for setting aside the order dated 02.05.2024 (Annexure P-10) passed by the Divisional Commissioner, Hisar Division, Hisar; whereby the appeal filed by the petitioner against his removal order dated 08.04.2024 (Annexure P-8) has been dismissed.

2. Briefly, the petitioner was elected to the post of *Sarpanch* of Village Lamba, Tehsil Ratia, District Fatehabad. It appears that while submitting his nomination papers, the petitioner submitted his matriculation certificate issued in October, 2019 by the Uttar Pradesh State Open School Board, Prayagraj.

2.1 It transpires that respondent No.5-Jatinder Singh submitted a complaint dated 07.12.2022 (Annexure P-2) against the petitioner alleging that the documentary proof of matriculation submitted by him at the time of election, was fake and forged. Upon the afore-said complaint dated 07.12.2022 (Annexure P-2), an enquiry was initiated and the Block Development and Panchayat Officer, Ratia submitted his report dated 03.05.2023 (Annexure P-4) to the Sub Divisional Officer (Civil), Ratia, *inter alia*, stating as under :-

“In the Block Education Officer, report contained in no.G-1/23/273-274 dated 28.04.2023, it has been mentioned that as per letter no.1974250/2022-2023 dated 17.01.2023 issued by Uttar Pradesh State Open School Board, Paryagraj, the certificate is valid. The report is being sent for further necessary action.”

2.2 The afore-said report was forwarded by the Sub Divisional Officer (Civil), Ratia to the Deputy Commissioner, Fatehabad, vide his report dated 11.05.2023 (Annexure P-5).

2.3 The learned Deputy Commissioner, Fatehabad, while relying upon the afore-said report dated 11.05.2023 (Annexure P-5), consigned the

complaint filed by respondent No.5-Jatinder Singh, to Office vide his letter/order dated 22.08.2023 (Annexure P-6).

2.4 Thereafter, the Deputy Commissioner, Fatehabad ordered a fresh enquiry in the matter to be conducted by the Additional Deputy Commissioner, Fatehabad; who submitted his enquiry report vide letter dated 27.09.2023, holding :-

“(i) Gurdev Singh has passed matriculation examination from Uttar Pradesh Open School Council, Paryagraj and 10th Class certificate has been found issued vide Registration No.RN00400001457, Roll No.OC2100040000157, was issued in the year, 2019 by Uttar Pradesh Open School Council, Paryagraj;

(ii) None of the examination conducted by this Council is recognized at par with any other examination conducted by Haryana School Education Board, Bhiwani nor has been included in any equivalent list;

(iii) The equivalence list referred in Chapter XII and Chapter XIV of Council regulations, the name of Uttar Pradesh Open School Council, Paryagraj is not mentioned;

(iv) Uttar Pradesh Open School Council, Paryagraj, is not recognized by Government of Uttar Pradesh as well as Secondary School Education Council, Alahabad;

(v) FIR No.78 dated 17.02.2018 under Sections 419, 420, 467, 468, 471 IPC has been registered in Police Station Indira Nagar, District Lucknow, Uttar Pradesh;

(vi) The educational certificate of Gurdev Singh, Sarpanch has not been recognized by Board of Secondary Education Council, therefore, the same has been found forged.”

2.5 Thereafter, a Show Cause Notice was issued to the petitioner vide Office letters dated 01.12.2023 and 13.12.2023.

2.6 Upon considering the matter, the Deputy Commissioner, Fatehabad vide order dated 08.04.2024 (Annexure P-8) ordered removal of

the petitioner from the post of *Sarpanch* under Section 51(3) of the Haryana Panchayati Raj Act, 1994 (for short 'the 1994 Act').

2.7 Being aggrieved against the afore-said order dated 08.04.2024 (Annexure P-8) passed by the Deputy Commissioner, Fatehabad, the petitioner preferred an appeal before the learned Commissioner, Hisar Division, Hisar; however, the same was also dismissed vide order dated 02.05.2024 (Annexure P-10).

2.8 Thereafter, the petitioner preferred a revision petition (***ROR-32-2024***) before the learned Financial Commissioner-cum-Secretary to the Government of Haryana; however, the same was dismissed on account of its maintainability.

3. In the afore-mentioned facts and circumstances, the petitioner has filed the present writ petition before this Court.

4. Learned counsel for the petitioner submits that once the complaint filed by respondent No.5 was enquired into and the same was consigned to the record room vide order/letter dated 22.08.2023 (Annexure P-6), there was no occasion for the Deputy Commissioner to have entertained a fresh complaint on the same allegations and to order another enquiry, whereupon the impugned orders have been passed. It is further submitted that the dis-qualification regarding which the petitioner is sought to be removed from the post of *Sarpanch*, falls under Section 175(v) of the 1994 Act, which envisages that a man ordinarily aspiring for the post of *Sarpanch* must have passed a matriculation examination or its equivalent from a recognized Institution/Board and it is not necessary that such recognition must be by a local Board or Institution in the State of Haryana only. It is contended that even if the matriculation certificate is recognized

by any Institution/Board from any other State, the same would not be a disqualification as envisaged Section 175(v) of the 1994 Act. It is accordingly submitted that the impugned orders be set aside.

5. Per contra, learned State counsel as well as learned counsel appearing for respondent No.5, have opposed the submissions made on behalf of the petitioner by submitting that the matriculation certificate submitted by the petitioner, at the time of election to the post of *Sarpanch* has been issued by the *Uttar Pradesh Open School Council, Paryagraj*, which is not a recognized Institution nor it is included in the equivalence list. It is submitted that initially the complaint submitted by respondent No.5 was wrongly consigned to the record room merely on the ground that the *Uttar Pradesh Open School Council, Paryagraj*, has certified that the matriculation certificate of the petitioner issued by it, is genuine, whereas the requirement under Section 175(v) of the 1994 Act, was to see as to whether the matriculation certificate produced by the petitioner was recognized by any Institution/Board.

6. Heard.

7. 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.

7.1 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;”

7.2 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.

xxx

xxx

xxx

...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.

xxx

xxx

xxx

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...

7.3 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...”

8. 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.

9. In the instant case, neither from the order dated 22.08.2023 (Annexure P-6) nor from the subsequent orders dated 08.04.2024 (Annexure P-8) and 02.05.2024 (Annexure P-10), it is forthcoming 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.

10. In this view of the matter, the orders dated 22.08.2023 (Annexure P-6); 08.04.2024 (Annexure P-8) and 02.05.2024 (Annexure P-10), are unsustainable and the same are accordingly, set aside. The writ petition is accordingly disposed of with a direction to the Deputy

Commissioner, Fatehabad to enquire into the complaint of respondent No.5- Jatinder Singh as regards the issue as to 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. Let the afore-said enquiry be conducted in accordance with law after affording due opportunity of hearing to all concerned. It is 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.

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

February 10, 2025
gurpreet

(HARSH BUNGER)
JUDGE

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