



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

CWP-19972-2025 (O&M)
Date of decision :27.08.2025

ANJUMAN

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

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

Ms. Upasana Dhawan, A.A.G., Haryana.

HARSH BUNGER, J. [ORAL]

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 20.03.2025 (Annexure P-10) passed by the learned Deputy Commissioner, Nuh; whereby, the petitioner has been removed from the post of Sarpanch of Gram Panchayat Leharwadi, Tehsil Punhana, District Nuh.

A further prayer has been made for setting aside the order dated 04.07.2025 (Annexure P-12) passed by the learned Divisional Commissioner, Faridabad; whereby, an appeal filed by the petitioner against order dated 20.03.2025 (Annexure P-10) has been dismissed.

2. Briefly, the by-elections for the post of Sarpanch of Gram Panchayat Leharwadi, were held wherein, the petitioner was declared

elected. Respondent no.6-Salma also contested the afore-said elections to the post of Sarpanch; however, she lost the same.

2.1 It appears that respondent No.6-Salma filed a complaint before the learned Deputy Commissioner, Nuh, alleging that the educational documents submitted by the petitioner at the time of her nomination are fake and bogus. It was further alleged that the petitioner is an illiterate person, who does not know how to read and write.

2.2 On the basis of the afore-said complaint, the Deputy Commissioner, Nuh vide its letter dated 12.10.2023 (Annexure P-2), marked an enquiry to the Sub-Divisional Officer (Civil), Punhana; who conducted the enquiry and submitted his report dated 11.06.2024 (Annexure P-3).

2.3 It transpires that the learned Deputy Commissioner, Nuh, vide letter dated 01.07.2024 got another enquiry conducted from the Chief Executive Officer, Zila Parishad, Nuh; who submitted his enquiry report dated 22.08.2024 (Annexure P-9) stating that the petitioner cannot be considered as 8th pass.

2.4 Thereafter, a Show Cause Notice along with inquiry report was served upon the petitioner vide letter dated 20.08.2024, but no reply was given by the petitioner. Thereafter, the petitioner was called for personal hearing on 05.11.2024 and 26.12.2024, wherein the petitioner could not present any document to show that she has requisite educational qualification.

2.5 Apparently, the learned Deputy Commissioner, Nuh, upon consideration of the matter, passed an order dated 20.03.2025 (Annexure P-10) holding that the petitioner was ineligible to contest the elections for the post of Sarpanch on account of the non-fulfilment of the

minimum educational qualification prescribed under Section 175(v) of the Haryana Panchayati Raj Act, 1994 (in short 'the 1994 Act').

2.6 Being aggrieved, the petitioner preferred an appeal against the order dated 20.03.2025 (Annexure P-10) before the learned Divisional Commissioner, Faridabad, who vide its order dated 04.07.2025 (Annexure P-12) dismissed the appeal preferred by the petitioner, holding that she did not fulfil the eligibility criteria of passing Class 8th as prescribed by the government. The relevant extract of order dated 04.07.2025 (Annexure P-12) reads as under :-

“After hearing the arguments of both the sides and examining the records of the following officer, it was found that the name of the appellant was struck off due to non-payment of school fees while studying in class 9. It is recorded in the school records, but the Chief Administrative Secretary, School and Sanskrit Education, Government of Rajasthan, No.(4) Pra.Shi./2012, Jaipur, dated 08.10.2012 had issued guidelines which were applicable from the session year 2012-13 according to which any student would be eligible to appear for the annual examination whose attendance in the class should be more than 70% whereas the appellant has only 8 days of attendance while studying in the school Government High School, Garhi Jheel Patti and neither has she appeared in any school class test, half-yearly and annual examination in the whole year. According to the above guidelines of the government, the appellant is not eligible to be promoted from class 8th to class 9th. In such a situation, as per rules, the appellant cannot be considered as having passed Class 8th and correcting any action done against the rules comes under the category of natural justice.

In view of the above facts, the appellant does not fulfil the eligibility criteria of passing class VIII as prescribed by the government for the election of Sarpanch Gram Panchayat Leharwadi. Therefore, the appeal is dismissed as it is found

contrary to the facts of the appellant and the order under appeal is upheld by considering it as a mere order. The order was pronounced. A copy of the order should be sent to the following officer along with the record and the file should be recorded as per the rules.”

2.7 In the afore-mentioned circumstances, the present writ petition has been filed by the petitioner before this Court, for the relief/s, as noticed here-in-above.

3. Heard.

4. Here, it would be apposite to refer to Section 175(v) of the 1994 Act, which 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;”

5. Before dealing with the case in hand, it would be appropriate to state here that Section 175(v) was incorporated in the 1994 Act by way of Haryana Panchayati Raj (Amendment) Act, 2015 (in short ‘2015 Amendment Act’). The constitutionality of the afore-said 2015 Amendment Act, was challenged before the Hon’ble Supreme Court of India, by way of ***Writ Petition (Civil) No.671 of 2015*** titled as ***Raj Bala and others vs State of Haryana and others***. The Hon’ble Supreme Court, after considering the

matter, held as under :-

“70. We shall examine the next facet of the challenge i.e. each of the four impugned clauses have created a class of persons who were eligible to contest the elections to Panchayats subject to their satisfying the requirements of law as it existed prior to the IMPUGNED ACT but are rendered now ineligible because they fail to satisfy one of the other conditions prescribed under clauses (t), (u), (v) and (w) of Section 175(1) of the Act. The case of the petitioners is that such a classification created by each of the impugned clauses amount to an unreasonable classification among people who form one class but for the IMPUGNED ACT, without any intelligible difference between the two classes and such classification has no nexus with the object sought to be achieved.

71. Learned Attorney General submitted that the object sought to be achieved is to have "model representatives for local self Government for better administrative efficiency which is the sole object of the 73rd constitutional amendment".

72. In the light of the above submissions, we shall now deal with the challenge to each of the above mentioned four clauses.

73. Clause (v) prescribes a minimum educational qualification of matriculation for anybody seeking to contest an election to any one of the offices mentioned in the opening clause of Section 175(1). However, the minimum educational qualification is lowered insofar as candidates belonging to scheduled castes and women are concerned to that of "middle pass" whereas a further relaxation is granted in favour of the scheduled caste woman insofar as they seek to contest for the office of Panch.

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81. An analysis of the data in the above table indicates that a large number of women (more than 50% of the otherwise eligible women) in general and scheduled caste women in particular would be disqualified to contest PANCHAYAT elections by virtue of the IMPUGNED ACT. Even with regard

to men, the data is not very clear as to how many of the literate men would be qualified to contest the elections for PANCHAYATS at various levels. Because for men belonging to general category (39 lakhs), a uniform requirement of matriculation is prescribed in respect of posts for which they seek to contest. Coming to men candidates belonging to the scheduled caste, a uniform academic qualification of "middle pass" is prescribed. How many men under these categories would be qualified to contest is not clear, as the exact data regarding their respective educational qualifications is not available on the record.

82. Coming to scheduled caste women and the proviso to clause (v) of Section 175(1), though educational qualification required is 5th (primary) pass, such a qualification only entitles them to contest an election for the post of PANCH of a village but to no other post. Therefore, if a scheduled caste woman desires to contest either to the post of SARPANCH or any other post at 'Samiti' or District level, she must be "middle pass". The exact number of scheduled caste women who possess that qualification is not available on record. Even assuming for the sake of argument that all educated scheduled caste women indicated in the Annexure-5 are middle pass, they only constitute 32% of the scheduled caste women. The remaining 68% of the women would be disqualified for contesting any election under the IMPUGNED ACT.

83. The question is - whether the impugned provision which disqualifies a large number of voter population and denies their right to contest for various offices under THE ACT is discriminatory and therefore constitutionally invalid for being violative of Article 14.

84. The learned Attorney General referred to Section 21 of THE ACT which catalogues the functions and duties of Gram Panchayat falling under 30 broad heads. To demonstrate the range of those heads, he pointed out some of the duties of a Gram Panchayat and submitted that in the light of such responsibilities to be discharged by members elected to the

Gram Panchayat, the legislature in its wisdom thought it fit to prescribe a minimum educational qualification and such a prescription cannot be said to be making an unreasonable classification among the voters attracting the wrath of Article 14. Several judgments of this Court are referred to emphasise the importance of education.

85. The impugned provision creates two classes of voters - those who are qualified by virtue of their educational accomplishment to contest the elections to the PANCHAYATS and those who are not. The proclaimed object of such classification is to ensure that those who seek election to PANCHAYATS have some basic education which enables them to more effectively discharge various duties which befall the elected representatives of the PANCHAYATS. The object sought to be achieved cannot be said to be irrational or illegal or unconnected with the scheme and purpose of THE ACT or provisions of Part IX of the Constitution. It is only education which gives a human being the power to discriminate between right and wrong, good and bad. Therefore, prescription of an educational qualification is not irrelevant for better administration of the PANCHAYATS. The classification in our view cannot be said either based on no intelligible differentia unreasonable or without a reasonable nexus with the object sought to be achieved.

86. The only question that remains is whether such a provision which disqualifies a large number of persons who would otherwise be eligible to contest the elections is unconstitutional. We have already examined the scheme of the Constitution and recorded that every person who is entitled to vote is not automatically entitled to contest for every office under the Constitution. Constitution itself imposes limitations on the right to contest depending upon the office. It also authorises the prescription of further disqualifications/qualification with respect to the right to contest. No doubt such prescriptions render one or the other or some class or the other of otherwise eligible voters,

ineligible to contest. When the Constitution stipulates undischarged insolvents or persons of unsound mind as ineligible to contest to Parliament and Legislatures of the States, it certainly disqualifies some citizens to contest the said elections. May be, such persons are small in number. Question is not their number but a constitutional assessment about suitability of persons belonging to those classes to hold constitutional offices.

87. If it is constitutionally permissible to debar certain classes of people from seeking to occupy the constitutional offices, numerical dimension of such classes, in our opinion should make no difference for determining whether prescription of such disqualification is constitutionally permissible unless the prescription is of such nature as would frustrate the constitutional scheme by resulting in a situation where holding of elections to these various bodies becomes completely impossible. We, therefore, reject the challenge to clause (v) to Section 175(1).”

5.1 From perusal of the above extracted provisions of Section 175(v) and also the observations made by the Hon’ble Supreme Court of India in **Raj Bala’s** case (*supra*), it would be evident that the prescription of minimum educational qualification for contesting the election to the post of Sarpanch/Panch (as the case may be) has a reasonable nexus with the object sought to be achieved, moreso, considering the responsibilities to be discharged by the members elected to the gram panchayat.

5.2 A bare perusal of Section 175(v) of the 1994 Act, would show that in case of a woman candidate, contesting the election to the post of Sarpanch or Panch (as the case may be), the minimum educational qualification shall be “middle pass”. The use of the term “shall” in the first proviso to Section 175(v) emphasizes that the said requirement is mandatory. Further, the term used is “middle pass”, which means that the concerned candidate must have passed the middle class (8th class).

6. Coming to the case in hand, the learned counsel for the petitioner has placed on record the copy of the petitioner’s mark-sheet dated 05.08.2024 as Annexure P-17, which reads as under :-

“As per the School Record for the Year/Session 2013-14
 Name :Anjuman Class and Section: VII th
 Date of Birth : 25.03.2000 Name of Mother : Saidan
 Name of Father : Azad Mohammad
 Admission Number : 16 Roll Number : 82
 Y-13 Test Result Session 2023 – 2014

Subject	Total Marks	Marks Obtained	Result (Class 3, 4, 5)
Hindi	200	0 Ab	School Meetings..... Attendance – 16 Attendance Percent – 0 Total Marks – 700 Marks Obtained – 0 Percentage of Marks Obtained – 0% Pass/Promoted (Ticked) Grade Student No. Rank in Class Special Qualification Date
Maths	200	0 Ab	
Environmental Edu.	200	0 Ab	
English	100	0 Ab	
Grand Total	700	0 Ab	
S.P.U.W.	100	0 Ab	
Art Education	100	0 Ab	
Health Education	100	0 Ab	

Nawkar Enterprises, AlwarSign. Class Teacher Sign. Principal
 -Sd -Sd + StampDevender Singh
 5/8/2024
 Mahatma Gandhi Govt. School (English Medium)
 District Deeg (Raj.)”

6.1 A bare look at the mark-sheet (Annexure P-17) would show that the petitioner is stated to have obtained `zero` marks in all the subjects, by further writing “Ab” therein, which is stated to mean “absent”.

6.2 When the petitioner was confronted with the afore-said fact, this Court passed the order dated 18.08.2025, the relevant extract of which reads as under :-

The ground for removal of the petitioner from the post of Sarpanch is that the petitioner has not passed the 8th Class as envisaged under the first proviso of Sub Section (v) of Section 175, which provides that in case of a woman candidate, the minimum qualification shall be middle pass. During the course of hearing, learned counsel for the petitioner has not disputed the fact that the petitioner never appeared for the Middle Class Examination but was promoted to Class 9th in view of the provisions contained in the Right to Education Act.

At this stage, learned counsel for the petitioner seeks a short accommodation to cite law as to whether the benefit of promotion granted under the provisions of the Right to Education Act can be extended/interpreted to mean that the petitioner has passed Middle Class Examination and that too without even appearing for the examination.

At his request, adjourned to 27.08.2025.”

6.3 Today, the only argument sought to be raised by the learned counsel for the petitioner is that in terms of Section 16 of the Right of Children to Free and Compulsory Education Act, 2009 (in short 'the 2009 Act'), there is a prohibition for holding back any child admitted to the school in any class or from being expelled from the school till the completion of elementary education. Section 16 of the 2009 Act, as it originally stood, reads as under :-

“16. Prohibition of holding back and expulsion.-No child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education.”

6.4 By referring to the above extracted Section 16 of the 2009 Act, learned counsel for the petitioner contends that once the petitioner was

promoted to Class 9, although she did not appear for the middle class examination, therefore, for all intents and purposes, she has to be considered as 8th pass. Accordingly, it is stated that the order of removal of the petitioner from the post of Sarpanch is bad and is liable to be set aside.

7. I have considered the afore-said contention raised on behalf of the petitioner, however, I find no merit in the same.

7.1 Evidently, the minimum educational qualification prescribed for woman candidate contesting the election for the post of Sarpanch or Panch (as the case may be) is provided in the first proviso to Section 175(v) of the 1994 Act, which clearly states that such candidate should be middle pass. The only interpretation to the afore-said provision is that the concerned woman candidate, contesting for the post of Sarpanch or Panch (as the case may be) must have passed middle (8th class) and there can be no exception thereto.

7.2 Concededly, the petitioner never appeared for the middle (8th) Class examination and she may have been promoted to Class 9 (although the said fact is also being disputed by the respondents); however, she cannot be said to hold the minimum educational qualification i.e. middle pass for contesting the elections to the post of Sarpanch.

7.3 It also requires to be noticed herein that recently Section 16 of the 2009 Act, has been amended by way of Act No.1 of 2019 (w.e.f. 01.03.2019), the relevant extract of amended Section 16 *ibid* reads as under :-

“16. Examination and holding back in certain cases

(1) There shall be a regular examination in the fifth class and in the eighth class at the end of every academic year.

(2) If a child fails in the examination referred to in sub-section (1), he shall be given additional instruction and

granted opportunity for re-examination within a period of two months from the date of declaration of the result.

(3) The appropriate Government may allow schools to hold back a child in the fifth class or in the eighth class or in both classes, in such manner and subject to such conditions as may be prescribed, if he fails in the re-examination referred to in sub-section (2):

Provided that the appropriate Government may decide not to hold back a child in any class till the completion of elementary education.

(4) No child shall be expelled from a school till the completion of elementary education.”

7.4 A perusal of the above extracted amended Section 16 of the 2009 Act, would show that now it has been provided that there shall be a regular examination in the 5th Class and in the 8th Class at the end of every academic session and if a child fails in the examination then the said child shall be given an additional instruction and granted opportunity for re-examination within a period of two months from the declaration of the result. Sub-section 3 of the amended Section 16 of the 2009 Act, further provides that the appropriate government may allow schools to hold back a child in the 5th Class or in the 8th Class or in both classes, in such manner and subject to such condition as may be prescribed, if he/she fails in the re-examination. However, there is a proviso added to Sub-section 3 of the amended Section 16 of the 2019 Act, which also provides that the appropriate government may decide not to hold back a child in any class till the completion of elementary education.

8. In the present writ petition, in para No.14(d), the petitioner has made the following averments :-

“14(d) BECAUSE reliance has been placed on the Circular issued by the Primary Education Department dated 08.10.2012 wherein it has been stated that due to non-

*fulfilment of the minimum attendance criteria and absence from classes/exams, the petitioner could not have lawfully considered as passed from Class 8. However, it has been ignored that in terms of **Section 16 of Right to Education Act, 2009** (hereinafter also referred to as the “**Act of 2009**” for brevity), provided that “no child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education.” Thus, in light of the provisions of Section 16 of the Act of 2009, the petitioner was rightly promoted from Class 8 to Class 9. Moreover, for the academic session of 2013, this Act of 2009 was applicable in the State of Rajasthan. Moreover, the application of the same is evident from the fact that in 2015, an amendment was brought to amend Section 16 of the Act of 2009 wherein it was observed that a student can be held back. It is pertinent to note the Statement of Objects and Reasons of the Right of Children to Free and Compulsory Education (Rajasthan Amendment) Act, 2015 wherein it is stated that :*

“STATEMENT OF OBJECTS AND REASONS

Right of Children to Free and Compulsory Education Act, 2009 provides right to all children to free and compulsory quality education but after implementation of some provision of this Act some provisions are prohibiting quality of education.

No detention policy upto class 8th creating problems to such children who are not attaining minimum level of appropriate class. These problems are realized when these children are essentially promoted in the next class. Monitoring of providing quality education to children by the teacher is not done by the school management committee.”

[Emphasis Added]

Therefore, a bare perusal of the above reveals that prior to passage of the above mentioned amendment, all students were being promoted from Class 8 to Class 9 since there was no detention policy in force. Thus, it cannot be rightly stated that the petitioner has not passed Class 8 as it was only in Class 9

*that her name was struck from the rolls. Moreover a valid Transfer Certificate has been issued to the petitioner. Government of Rajasthan has subsequently amended the provisions whereby there is a restricting on passing of the students from Class 8. However, the same cannot applied retrospectively to the prejudice and disadvantage of the petitioner. A copy of the Circular dated 08.10.2012 is attached as **Annexure P-14**, the unamended Act of 2009 is attached as **Annexure P-15** and Bill No.34 of 2015 is attached as **Annexure P-16**.”*

8.1 From a perusal of the above extracted para No.14(d), it is evident that the Government of Rajasthan has issued a circular dated 08.10.2012 (Annexure P-14) thereby implementing the examination and promotion rules, applicable to Classes 1 to 8 of Government and recognized Primary Schools, Higher Secondary Schools, Schools of Sanskrit Education, Schools run by Shiksha Karmi Board, Madrasas registered by Madrasa Board and Government Secondary/Higher Secondary Schools of Rajasthan. The afore-said circular also provides for the minimum attendance as under :-

“2.2 Attendance count and requirement

- 1. In case of absence in the periodical examination and half-yearly examination held from class 1 to 8, the head of the institution, after being satisfied with the reasons for absence, will conduct the periodical examination/half-yearly examination separately when the student is present in the school. This examination should be conducted for the subjects in which the student was absent.*
- 2. The attendance of regular students from class 1 to 8 will be calculated from the date of commencement of school and the attendance of newly admitted students will be calculated from the date of admission (till the last admission date mentioned in Shivira Panchang or extended period) till the day*

before the annual exam preparation holiday. This minimum attendance will be 70 percent.

3. A student who remains absent from school for 45 consecutive days or does not achieve the required attendance level as per 2.2(2) will be treated as a drop out and will be re-admitted as per age and will be brought up to the level of that class through special training.

4. After being satisfied, the head of the institution may give relaxation upto maximum 10% in attendance for appearing in annual examination due to illness or other reasonable reasons at his discretion. The illness certificate shall be submitted by the student within seven days.”

9. Evidently, the certificate produced by the petitioner, on the basis of which she claims to have been promoted to Class 9, has been issued by the Principal, Mahatma Gandhi Government School, Gadhi Jheel Patti (Kamon) District Deeg, Rajasthan, under the Rajasthan Government Education Department.

9.1 Be that as it may; even if the petitioner was only promoted to Class 9, may be in terms of the un-amended Section 16 of the 2019 Act; however, for the purposes of election to the post of Sarpanch in the State of Haryana, she cannot be considered to have “passed” the “middle class” and therefore, was ineligible to contest the election.

10. At this stage, another argument has been raised by learned counsel for the petitioner that respondent No.6-Salma had also filed an election petition challenging the election of petitioner as Sarpanch on similar grounds, therefore, the instant proceedings initiated against her by the District Authorities are bad and liable to be quashed.

10.1 I have considered the afore-said plea, however, I am unable to accept the same; especially in view of judgment passed by the Division

Bench of this Court in *Nisva @ Nisha Khatoon v. State of Haryana*, **2025(3) RCR (Civil) 273**; wherein one of the questions framed was :-

(iii) Whether the election of the appellant could have been questioned only by way of filing an election petition and not under Section 51 of the 1994 Act?

10.2 Upon consideration of the matter, the Division Bench observed as under:-

“19. Now coming to Issue no.(iii) as to whether the election of the appellant could have been questioned only by way of filing an election petition under Section 176 and not under Section 51 of the 1994 Act; suffice it to say that a careful perusal of the provisions contained in Sections 51 and 176 of the 1994 Act, would indicate that both the said provisions operate in different fields and there is nothing contained therein to indicate that the said provisions exclude each other. Section 176 of the 1994 Act, operates when an election petition is brought before the Court of Competent Jurisdiction whereas, Section 51 of the 1994 Act, enables the Director or the Deputy Commissioner concerned, to pass an order of removal on the basis of the grounds specified in sub-section (3) of Section 51 of the 1994 Act.

19.1 to 19.3 xxx xxx xxx

20. *Keeping in view the above discussion, it can safely be held that the election of the appellant could have been questioned either by filing an election petition under Section 176 of the 1994 Act or by submitting a complaint to the concerned authority under Section 51 of the 1994 Act; therefore, Issue no.(iii) is decided accordingly...”*

10.3 Even a Special Leave to Appeal (C) No. 14913/2025 filed against the judgment in case of *Nisva @ Nisha Khatoon (supra)* has been dismissed by the Hon'ble Supreme Court of India vide its order dated 21.05.2025.

11. That apart, even if any objection as regards maintainability of the proceedings under Section 51 of the 1994 Act was to be raised, the same was required to be done at the initial stage when the petitioner had received a notice from the District Authorities and not after suffering adverse order(s) and that too after participating in those proceedings.
12. No other argument has been raised.
13. Considering the above discussion, I find no merit in this petition and the same is, accordingly, dismissed.
14. All pending applications (if any) shall also stand closed.

August 27, 2025
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No