

2025:PHHC:139848



296

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

**CWP-5676-2024 (O&M)
Date of Decision: 09.10.2025**

Anju Bala

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Ms. Savita Rana, Advocate and
Mr. Himanshu Gupta, Advocate
for the petitioner.

Mr. Sanjeev Kumar, Addl. A.G., Haryana.

Mr. Ankit Chahal, Advocate and
Ms. Monika Beriwal, Advocate
for respondents No.5 and 6.

Mr. Sanjeev Kaushik, Advocate (Amicus Curiae).

HARSH BUNGER J. (ORAL)

Petition herein is, *inter alia*, seeking a writ in the nature of Certiorari for setting aside order dated 20.01.2024 (Annexure P-5) passed by the learned Deputy Commissioner, Karnal, and order dated 27.02.2024 (Annexure P-8) passed by the learned Divisional Commissioner, Karnal.

2. Briefly, in the year 2022, the petitioner contested the election

for the post of Sarpanch of Village Sarwan Majra, Block Indri, District Karnal, which was reserved for the Scheduled Castes category. It appears that at the time of submitting the nomination form, the petitioner submitted her Scheduled Caste Certificate (Annexure P-11). The petitioner won the election and took the oath of office as Sarpanch.

2.1 It transpires that a complaint was submitted against the petitioner alleging that she contested the election of Sarpanch by submitting a false affidavit and producing a forged and fabricated Scheduled Castes Certificate.

2.2 Based on the aforesaid complaint, an inquiry was marked to the Additional Deputy Commissioner, Karnal, who submitted his inquiry report dated 21.07.2023 (Annexure P-1). Relevant extract thereof reads as under:-

*“During the investigation, it was found that caste certificate has been issued to Smt. Anju Bala daughter of Sh. Shoban Prasad from District Ambala by Tehsildar Ambala on 28.10.2009 for BCA Category (**attached Annexure 1**), and in the document of Girls Senior Secondary School, Baldev Nagar, the caste of Smt. Anju is shown as Bengali BCA (**copy attached Annexure-2**). Meanwhile, Smt. Anju Bala, daughter of Sh. Shobhan Prasad, has also prepared her own Scheduled Caste certificate on the basis of the Scheduled Caste certificate of her father, who is shown to be from Bihar, in which Smt. Anju Bala has given her father’s name as Sharwan Dass son of Kesho Dass Mohalla Keshopur District Jamui State Bihar Chamar Caste (**Annexure-3**) which comes under Scheduled Caste category and has presented it along with other documents, using which Smt. Anju Bala got her Scheduled Caste certificate made and filed nomination for the post of Sarpanch and won the election. **It is also known that by the family ID CRID in BC (A) caste of Smt. Anju Bala is verified by Patwari and Kanungo has verified general but during the***

Panchayat elections, a separate arrangement was made to issue the caste certificate only for the elections, misusing which Smt. Anju Bala made the SC certificate by showing the SC caste certificate of Sharwan Dass of Bihar. In this way, two different caste certificates have been prepared by the same citizen, for physical investigation, correspondence was made with the Election Officer, Ambala and Election Officer, Bihar regarding the identity card of the father of Smt. Anju Bala and while taking action, a letter was written from the office to Tehsil Election Officer, Ambala on 03.07.2023 (attached Annexure-4) that the copy of voter ID of Sh. Shobhan Prasad should be made available, in response to which the Tehsil Election Officer, Ambala, has provided the Voter ID of Sh. Shobhan Prasad (attached Annexure-5) and documents of Sharwan Das have also been obtained from Bihar (attached Annexure-6). When both the documents received were matched, it was found that the photographs of Shobhan Prasad and Sharwan Das were different.

Thereafter, notice was issued on 03.07.2023 in which Sh. Shobhan Prasad was asked to be present in the office on 12.07.2023 but Sh. Shobhan Prashad is not presented in the office, after which again on 17.07.2023 through this office notice (attached annexure P-7), he has been given an opportunity to present in the undersigned office and present his view and on 18.07.2023, the office notice was pasted on the door of his house but Sh. Shobhan Prashad remain absent.

Conclusion:-

After taking action at the office level and examined the documents, it has been found that the Smt. Anju Bala has got certificates of two different castes, which is suspicious and appears to have been made for personal benefits. Smt. Anju Bala prepared the SC caste certificate in Karnal by fraudulently submitted the SC caste certificate of Sh. Sharwan Dass (resident of Bihar State) and after which a wrong affidavit was presented before the investigation officer

(attached annexure P-8), in which Shobhan Prashad and Sharwan Dass has been described as the same person. Apart from this, there is a difference in the name of Shobhan Prashad and Sharwan Dass in the record presented by Tehsil Election Office, Ambala and Tehsil Election Officer Bihar and there is also difference in the photos, due to which both appears to be different persons. Due to this, the undersigned has come to this conclusion that fraudulently SC caste certificate has been prepared by Smt. Anju Bala. Action is recommended as per rules.”

2.3 On the basis of this inquiry report, a Show Cause Notice dated 28.07.2023 (Annexure P-2) was issued to the petitioner, calling upon her as to why she should not be removed from the post of Sarpanch, in terms of Section 51(3)(b) of the Haryana Panchayati Raj Act, 1994 (in short ‘the 1994 Act’).

2.4 The Deputy Commissioner, Karnal, upon consideration of the matter, passed order dated 01.08.2023, whereby the petitioner was removed from the post of Sarpanch.

2.5 Feeling aggrieved against the aforesaid order dated 01.08.2023, the petitioner filed an appeal before the learned Divisional Commissioner, Karnal, which was allowed vide order dated 08.08.2023 (Annexure P-4), and the matter was remanded to the Deputy Commissioner, Karnal, for a fresh decision, by observing as under:-

“ - x - x -

On hearing the counsel for the appellant and on perusal of the documents on record, the appellant has argued that she has not been given opportunity of personal hearing and no opportunity was given to produce the record. The enquiry officer has not got the verification of documents properly and the lower court has not got verified the documents from concerned department and without verification, the

genuineness of documents cannot be proved. In these circumstances, the order of lower court is illegal and is not tenable in the eyes of law and is hereby set aside. The matter is remanded to Deputy Commissioner, Karnal with a direction to give opportunity of hearing to the appellant and to give opportunity to produce the record and to get the verification of documents from the concerned department and to decide the matter afresh on the basis of merits and demerits. The appellant is directed to appear before the Deputy Commissioner, Karnal on 31.08.2023 to defend her case and the file after compliance be consigned to record.”

2.6 Upon remand, the Deputy Commissioner, Karnal, reconsidered the matter and, vide order dated 20.01.2024 (Annexure P-5), removed the petitioner from the post of Sarpanch, by holding as under:-

“In compliance of the order of Hon’ble Punjab and Haryana High Court, Chandigarh, Shri Ramesh Lal son of Krishan Lal, resident of Sarwan Majra, Block Indri, District Karnal and Smt. Anju Bala, Sarpanch, Gram Panchayat Sarwan Manjra, Block Indri, District Karnal were summoned to appear on 28.12.2023 at 11:00 AM for personal hearing. Thereafter, Additional Deputy Commissioner, Karnal while submitting its report no.CRID/KNL/2024/1048 dated 10.01.2024 has mentioned that:

“After going through the documents, the undersigned had submitted its report to Deputy Commissioner, Karnal vide letter no.CRID/2023/451 dated 21.07.2023 and again after going through the documents and on hearing respondent Smt. Anju Bala daughter of Shobhan Parshad and after verification of the documents, the undersigned has come to the conclusion that report given by Sub Divisional Magistrate (Civil), Ambala does not appear to be illegal and the undersigned is not agreed with the aforesaid report. On perusal of documents pertaining to Smt. Anju Bala daughter of Shobhan provided by the District Education Officer, Ambala, it is proved that in the

original school record, the caste of Anju Bala is shown as Kabila Bangali BC and in certificate no.11147 dated 28.02.2009 enclosed with the school record, the caste of Anju Bala is shown as “Ghasiara or Ghosi”. It is pertinent to mention here that in the school record of Guru Sahiba High School, Ambala City and Government Girls High School, Baldev Nagar, Ambala, the caste of Anju Bala daughter of Shobhan Parshad is shown as Backward Class. It is not believable that while taking education in the School, the student and her guardian were not aware about their caste.

That in the caste certificate enclosed with nomination form, the caste of Smt. Anju Bala daughter of Shobhan is mentioned. The different caste of one person shown in different record goes to show forgery. It also appears that Anju Bala daughter of Shobhan Parshad on different times and in different record in order to take undue benefit has mentioned her different caste, which is illegal.

Besides this, in different record of Anju Bala her name has been shown as Shobhan Parshad and grandfather's name as Keshav Parshad, but no record was available. As per the statement of Anju Bala, her father is permanent resident of Kishorpura, District Jumai (Bihar) and in order to prove the genuineness of the documents issued by Bihar State, Anju Bala has not provided any proof regarding her caste and no information was given. Besides this, according to record, there are certain anomalies in the record of village Keshopura, of Jumai regarding residence of Sarwan Dass son of Kesho Dass and the name of her grandfather. It appears that both are different persons and no cogent proof regarding residence and caste of Shobhan Parshad has been produced.

Hence, as per the school record, the caste of Anju Bala daughter of Shobhan Parshad, it will be better to establish the caste of Anju Bala as “Ghasiara or Ghosi” and the use of certificate of Chamar Caste to contest the election on the basis of Chamar Caste is illegal.

Hence, I, Anish Yadav, IAS, Deputy Commissioner, Karnal, on the basis of documents on record and keeping in view the enquiry report no.CRID/KNL/2024/1048 dated 10.01.2024 and in compliance of letter no.SEC/4E-II/202/5987 dated 18.11.2022 of Election Commission and under the provisions of Haryana Panchayati Raj Act, 1994, Section 51(3), Clause B, dismiss Anju Bala, Sarpanch, Gram Panchayat Sarwan Majra, Block Indri, District Karnal and order to hand over the movable and immovable properties of Gram Panchayat Sarwan Majra to the Panch of majority.”

2.7 Being dissatisfied, the petitioner again preferred an appeal before the learned Divisional Commissioner, Karnal, challenging her removal order dated 20.01.2024 (Annexure P-5); however, the appeal was dismissed vide order dated 27.02.2024 (Annexure P-8).

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

4. Learned counsel for the petitioner submits that the learned authorities below have erred in law and fact in passing the impugned orders. It is submitted that the authorities did not afford the petitioner a proper opportunity of hearing or allow her to cross-examine the author of the inquiry report. It is further submitted that the adverse material relied upon against the petitioner was never supplied to her. It is also submitted that the petitioner produced her Caste Certificate bearing No.SCC/2022/236053 dated 14.10.2022, issued by the Government of Haryana, as well as the Scheduled Caste/Caste Certificate bearing No. BCCCO/2023/2139947 dated 17.04.2023, issued by the State of Bihar, to her father; however, these certificates were not considered by the authorities below. It is next submitted that the petitioner was married into a General Category family and has never

changed her caste from Scheduled Caste to General Category or any Backward Class Category (BCA). It is further submitted that the alleged Backward Class Certificate, shown to be issued in 2011, was never obtained by the petitioner from any authority. Learned counsel for the petitioner contends that the petitioner's removal from the post of Sarpanch was primarily based on the existence of two contradictory certificates relating to her caste. It is also submitted that the authorities under the 1994 Act did not have jurisdiction to decide this matter, as it falls within the exclusive domain of the Election Tribunal under Section 176 of the 1994 Act.

4.1 With the aforesaid submissions, learned counsel for the petitioner has prayed for setting aside the impugned orders.

5. Per contra, learned State counsel as well as learned counsel for respondents No.5 and 6 have opposed the submissions made by learned counsel for the petitioner and prayed for dismissal of the present writ petition.

6. Mr. Sanjeev Kaushik, Advocate, appointed as Amicus Curiae to assist the Court in this matter, has aided the Court on the legal issues by citing several judgments rendered in *“Bir Singh Vs. Delhi Jal Board and others”*, 2018 AIR (Supreme Court) 4077; *“Chandigarh Housing Board Vs. Tarsem Lal”*, 2024 (2) RCR (Civil) 163; *“Bhadar Ram (D) Through LRs Vs. Jassa Ram and others”*, 2022 AIR (Supreme Court) 322; *“Ranjana Kumari Vs. State of Uttarakhand and others”*, 2019 (15) SCC 664; *“Ram Bharose Vs. State of Haryana and others”*, 2025 NCPHHC 28966; *“Smt. Jaswinder Kaur Vs. The State of Himachal Pradesh and others”*, 2024:HHC:13772; *“Seema Devi Vs. Union of India and others”*, 2024 ILR MP 448; and *“Poornima Vs. State of Punjab and others”*,

CWP No.22489 of 2015, decided on 21.09.2022.

6.1 Mr. Sanjeev Kaushik, Advocate, has further referred to a letter dated 22.02.2018, issued by the Government of India, Ministry of Social Justice and Empowerment (Scheduled Castes Development Division – Revision of Lists Cell), New Delhi, and another letter dated 25.10.2023 issued by the State Election Commission, Haryana, addressed to all the Deputy Commissioners in the State of Haryana, circulating clarification on the issue that “can a person belonging to Scheduled Caste from other State, claim benefit of reservation in Urban Local Bodies Elections in the State of Haryana or not?”.

6.2 While referring to the above-mentioned letters and judgments, Mr. Sanjeev Kaushik, Advocate, contends that a person belonging to a Scheduled Caste in State ‘A’ cannot claim the same status in another State on the basis that he is stated as Scheduled Caste in State ‘A’. It is submitted that the persons who are recognized as the members of the Scheduled Castes/Scheduled Tribes in their original State are not entitled to benefits of reservation in any other migrated State/Union Territory. It is also submitted that in terms of Articles 338, 338-A, 341 and 342 of the Constitution of India, any tinkering or deviation from the list of castes or tribes notified in the presidential order, which are reserved for that State or Union Territory, is precluded.

7. I have heard learned counsel for the respective parties as well as the learned Amicus Curiae and perused the paper book with their able assistance.

8. Having heard learned counsel for the respective parties and the learned Amicus Curiae, and upon perusal of the record, the following two

issues arise for consideration before this Court:-

(i) Whether the petitioner, who admittedly contested the election for the post of Sarpanch from a seat reserved for the Scheduled Caste category in the State of Haryana, could validly claim to belong to a Scheduled Caste community of this State on the strength of a caste certificate purportedly obtained by her by placing reliance upon her father's Scheduled Caste certificate issued in the State of Bihar?

(ii) Whether the authorities under the 1994 Act did not have the jurisdiction to decide the matter as it fell within the exclusive domain of the Election Tribunal under Section 176 of the 1994 Act?

Issue No.(i):

9. Before dealing with Issue No.(i), it would be apposite to refer to Articles 341 and 342 of the Constitution of India deals with Scheduled Castes and Scheduled Tribes, respectively, which read as under:-

“341. Scheduled Castes.—(1) The President [may with respect to any State [or Union territory], and where it is State, after consultation with the Governor thereof], by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State [or Union territory, as the case may be].

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

342. Scheduled Tribes.—(1) The President [may with respect

to any State [or Union territory], and where it is a State, after consultation with the Governor thereof], by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State [or Union territory, as the case may be].

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.”

9.1 While interpreting the aforesaid Article 341 of the Constitution of India, especially the words 'in relation to that State', the Hon'ble Supreme Court in ***"Marri Chandra Shekhar Rao versus Dean, Seth. G.S. Medical College and Others"*** reported as (1990) 3 SCC 130, in paragraphs No.13, 14 and 22 of its judgment, has observed as under:-

"13. It is trite knowledge that the statutory and constitutional provisions should be interpreted broadly and harmoniously. It is trite saying that where there is conflict between two provisions, these should be so interpreted as to give effect to both. Nothing is surplus in a Constitution and no part should be made nugatory. This is well settled. See the observations of this Court in Venkataramana Devaru v. State of Mysore, where Venkatarama Aiyer, J. reiterated that the rule of construction is well settled and where there are in an enactment two provisions which cannot be reconciled with each other, these should be so interpreted that, if possible, effect could be given to both, It, however, appears to us that the expression 'for the purposes of this Constitution' in Article 341 as well as in Article 342 do imply that the Scheduled Caste and the Scheduled Tribes so specified would be entitled to enjoy all the

constitutional rights that are enjoyable by all the citizens as such. Constitutional right, e.g., it has been argued that right to migration or right to move from one part to another is a right given to all -- to Scheduled Castes or Tribes and to non-scheduled castes or tribes. But when a Scheduled Caste or Tribe migrates, there is no inhibition in migrating but when he migrates, he does not and cannot carry any special rights or privileges attributed to him or granted to him in the original State specified for that State or area or part thereof. If that right is not given in the migrated State it does not interfere with his constitutional right of equality or of migration or of carrying on his trade, business or profession. Neither Article 14, 16, 19 nor Article 21 is denuded by migration but he must enjoy those rights in accordance with the law if they are otherwise followed in the place where he migrates. There should be harmonious construction, harmonious in the sense that both parts or all parts of a constitutional provision should be so read that one part does not become nugatory to the other or denuded to the other but all parts must be read in the context in which these are used. It was contended that the only way in which the fundamental rights of the petitioner under Articles 14, 19(1)(d), 19(1)(e) and 19(1)(f) could be given effect to is by construing Article 342 in a manner by which a member of a Scheduled Tribe gets the benefit of that status for the purposes of the Constitution throughout the territory of India. It was submitted that the words "for the purposes of this Constitution" must be given full effect. There is no dispute about that. The words "for the purposes of this Constitution" must mean that a Scheduled Caste so designated must have right under Articles 14, 19(1)(d), 19(1)(e) and 19(1)(f) in as much as these are applicable to him in his area where he migrates or where he goes. The expression "in relation to that State" would become nugatory if in all States the special privileges or the rights granted to Scheduled Castes or Scheduled Tribes are carried forward. It will also be

inconsistent with the whole purpose of the scheme of reservation. In Andhra Pradesh, a Scheduled Caste or a Scheduled Tribe may require protection because a boy or a child who grows in that area is inhibited or is at disadvantage. In Maharashtra that caste or that tribe may not be so inhibited but other castes or tribes might be. If a boy or a child goes to that atmosphere of Maharashtra as a young boy or a child and goes in a completely different atmosphere or Maharashtra where this inhibition or this disadvantage is not there, then he cannot be said to have that reservation which will denude the children or the people of Maharashtra belonging to any segment of that State who may still require that protection. After all, it has to be borne in mind that the protection is necessary for the disadvantaged castes or tribes of Maharashtra as well as disadvantaged castes or tribes of Andhra Pradesh. Thus, balancing must be done as between those who need protection and those who need no protection, i.e., who belong to advantaged castes or tribes and who do not. Treating the determination under Articles 341 and 342 of the Constitution to be valid for all over the country would be in negation to the very purpose and scheme and language of Article 341 read with Article 15(4) of the Constitution.

14. Our attention was drawn to certain observations in Elizabeth Warburton v. James Loveland. It is true that all provisions should be read harmoniously. It is also true that no provision should be so read as to make other provisions nugatory or restricted. But having regard to the purpose, it appears to us that harmonious construction enjoins that we should give to each expression--- “in relation to that State” or “for the purposes of this Constitution” --- its full meaning and give their full effect. This must be so construed that one must not negate the other. The construction that reservation made in respect of the Scheduled Caste or Tribe of that State is so determined to be entitled to all the privileges and rights under the Constitution in that State would be the most correct way of

reading, consistent with the language, purpose and scheme of the Constitution. Otherwise, one has to bear in mind that if reservations to those who are treated as Scheduled Caste or Tribe in Andhra Pradesh are also given to a boy or a girl who migrates and gets deducted (sic inducted) in the State of Maharashtra or other States where that caste or tribe is not treated as Scheduled Caste or Scheduled Tribe then either reservation will have the effect of depriving the percentage to the member of that caste or tribe in Maharashtra who would be entitled to protection or it would denude the other non-Scheduled Castes or non-Scheduled Tribes in Maharashtra to the proportion that they are entitled to. This cannot be logical or correct result designed by the Constitution.

- x - x -

22. In that view of the matter, we are of the opinion that the petitioner is not entitled to be admitted to the medical college on the basis of Scheduled Tribe certificate in Maharashtra. In the view we have taken, the question of petitioner's right to be admitted as being domicile does not fall for consideration."

9.2 Similar controversy was involved in the case titled as "**Ranjana Kumari versus State of Uttarakhand and others**" reported as (2019) 15 SCC 664, wherein a three Judge Bench of the Hon'ble Supreme Court held as under:-

"4. Two Constitution Bench judgments of this Court in Mari Chandra Shekhar Rao v. Seth G.S. Medical College and Action Committee on Issue of Caste Certificate to SCs/STs v. Union of India have taken the view that merely because in the migrant State the same caste is recognised as Scheduled Caste, the migrant cannot be recognised as Scheduled Caste of the migrant State. The issuance of a caste certificate by the State of Uttarakhand, as in the present case, cannot dilute the rigours of the Constitution Bench judgments in Mari Chandra Shekhar Rao and Action Committee."

9.3 In the case titled as "**Bhadar Ram versus Jassa Ram and**

others", reported as (2022) 4 SCC 259, controversy involved was regarding entitlement of benefit of status as SC/ST or OBC of the State in another State and it has been held that benefit of status of SC/ST or OBC in one State is not automatically or ordinarily transferable to another State upon migration.

9.4 It is thus abundantly clear from Articles 341 and 342 of the Constitution of India that the power to specify a caste or tribe as a Scheduled Caste or Scheduled Tribe is conferred upon the President of India, in relation to each State or Union Territory. Once such specification is made, only Parliament, by law, may include or exclude any caste or tribe from the notified list. Neither the executive nor the judiciary has any authority to modify or extend the scope of the Presidential Order. The words “in relation to that State or Union Territory” occurring in Articles 341(1) and 342(1) are of decisive significance; they indicate that the recognition of a caste or tribe is confined to the particular State or Union Territory for which it is so notified.

10. Here, it would also be apposite to refer to the letter dated 22.02.2018, issued by the Government of India, and letter dated 25.10.2023, issued by the Haryana State Election Commission, in extenso. Letter dated 22.02.2018, issued by the Government of India reads as under:-

“
No. 12017/2/2018 -SCD (R.L.Cell)
Government of India
Ministry of Social Justice and Empowerment
Department of Social Justice and Empowerment
(Scheduled Castes Development Division- Revision of Lists Cell)
Shastri Bhawan, New Delhi,
dated the 22nd February, 2018.

To

The Chief Secretaries to all State Governments/Union Territory Administrations.

Subject:-- Reiteration of the instruction on issue of Scheduled Caste Certificate to migrants from other States/Union Territories.

Sir /Madam,

I am directed to refer to Ministry of Home Affairs (MHA) letters No. BC-16014/1/82-SC & BCD-I dated 06.08.1984 & 22.02.1985 (copies enclosed) in which Chief Secretaries of all State Governments/Union Territory Administrations were requested that the prescribed authority of a State Government/Union Territory Administration may issue the Scheduled Caste/Tribe certificate to a person who has migrated from another State, on the production of the genuine certificate issued to his/her father by the prescribed authority of the State of the father's origin except where the prescribed authority feels that detailed enquiry is necessary through the State of origin before issue of the certificate. The certificate will be issued irrespective of whether the Caste/Tribe in question is scheduled or not in relation to the State/Union Territory to which the person has migrated. The revised form of Caste Certificate for the purpose was circulated. It was clarified that the Scheduled Caste/Scheduled Tribe person on migration from the State of his/her origin to another State will not lose his/her status as Scheduled Caste/Scheduled Tribes but he/she will be entitled to the concessions/benefits admissible to the Scheduled Castes/Scheduled Tribes from the State of his/her origin and not from the State where he/she has migrated.

2. *Instances have been brought to the notice of this Ministry that despite the aforesaid instructions, the persons belonging to Scheduled Castes who have migrated from one State/Union territory (UT) to another for the purpose of employment, education etc. experience great difficulty in obtaining caste certificate or they are denied Scheduled Caste certificate in the migrated State/UT.*

3. *It is, therefore, reiterated that the competent authorities who have been empowered to issue social status certificate in a State Government/UT Administration may issue the Scheduled Caste certificate to a person who has migrated from another State/UT, on the production of the genuine certificate issued to his/her father by the prescribed authority of the State/UT of the father's origin except where the prescribed authority feels that detailed enquiry is necessary through the State/UT of origin before issue of the certificate. The certificate will be issued irrespective of whether the Caste in question is scheduled or not in relation to the State/UT to which the person has migrated. It is also clarified that inter-State/UT Scheduled Caste migrant*

will be deemed to be a Scheduled Caste of the State/UT of his/her origin and will be entitled to derive benefits from the State/UT of origin and not from the State/UT to which he/she has migrated. However, a member of a Scheduled Caste would be entitled for all benefits/concessions of Central Government irrespective of his/her State/UT of origin.

4. *All the State Governments/UT Administrations are requested to bring the contents of this letter to the notice of all the authorities empowered to issue social status certificate in the State/ Union Territory.*

Encl: as above.

*Yours faithfully,
Sd/-
(Aindri Anurag)
Joint Secretary to the Govt.of India
Tel: 23383853*

No. 12017/1/2018 -SCD (R.L.Cell) Dated the 22nd February, 2018”

10.1 Letter dated 25.10.2023, issued by the Haryana State Election Commission, reads as under:-

“ **STATE ELECTION COMMISSION, HARYANA**
NIRVACHAN SADAN, PLOT NO. 2, SECTOR- 17
PANCHKULA, HARYANA – 134109

Website: www.secharyana.gov.in

Phone : +91172 258 4810

Email id: sec@hry.nic.in

Fax: +91 172 258 5904

MUNICIPAL ELECTIONS

No. SEC/1ME/202/1997-2018

Dated: 25.10.2023

To

*All the Deputy Commissioners
in the State of Haryana*

Subject: Can a person belonging to Scheduled Caste from another State claim benefit of reservation in Urban Local Bodies elections in the State of Haryana or not? -Clarification regarding.

Sir/ Madam,

I have been directed to refer to the above subject and to inform you that on a query from the State Election Commission, Haryana the Urban Local Bodies Department, Haryana had sought clarification on the following points from the Law and Legislative Department, Haryana:

- i.) Whether a person belonging to Scheduled Castes having certificate of Scheduled Castes issued by another State and having migrated to Haryana State can claim benefit of Scheduled Caste and reservation in Urban Local Bodies election in the State of Haryana or not?*
- ii) Further, if a man from unreserved category or any other category*

except Scheduled Castes marries a women from another State belonging to Scheduled Castes and which caste has also been included in the list of Scheduled Castes in Haryana, then can that women claim benefit of reservation meant for Scheduled Castes for contesting elections in Urban Local Bodies in the State of Haryana?

2. The Law and Legislative Department, Haryana in this respect has answered in "Negative" vide its opinion/advice dated 21.07.2023.

3. A copy of letter dated 06.10.2023 of Urban Local Bodies Department, Haryana alongwith the advice dated 21.07.2023 of Law and Legislative Department, Haryana is enclosed herewith. You are advised to familiarize yourself with the abovesaid opinion/advice of Law and Legislative Department and also bring these into the notice of all Returning/Assistant Returning Officers at the time of Municipal elections to be held in future.

Encl: As above

*Yours faithfully,
Sd/-*

*Asstt. State Election Commissioner,
for State Election Commissioner,
Haryana.*

Endst. No. SEC/IME/2023/2019-2139

Dated: 25.10.2023"

11. Coming to the case in hand, it is not in dispute that the post of Sarpanch of Gram Panchayat, Sarwan Majra, was reserved for a Scheduled Caste candidate. The petitioner contested and was elected against the said post. The record reveals that at different points in time, the petitioner had obtained two different caste certificates – one reflecting her as belonging to the Backward Class (A) category in Haryana, and the other showing her as a member of a Scheduled Caste, based upon the Scheduled Caste certificate of her father who is stated to be a permanent resident of the State of Bihar. The school records of the petitioner, as well as the verification conducted by the authorities, clearly indicate that her caste was recorded as “Bengali BCA” or “Ghasiara/Ghosi”, which fall within the Backward Class category and not within the Scheduled Caste category in the State of Haryana.

12. Be that as it may, when the aforesaid legal position is applied to the present case, it is evident that the petitioner, who admittedly has roots in

the State of Bihar, cannot derive any benefit from the Scheduled Caste certificate of her father issued in that State to claim eligibility for contesting an election reserved for Scheduled Castes in Haryana. The petitioner's reliance on a certificate obtained from the authorities in Haryana on the basis of Scheduled Caste Certificate of her father issued by the State of Bihar, would not entitle the petitioner to contest election as a Scheduled Caste candidate in Gram Panchayat elections in the State of Haryana, especially in light of letter dated 22.02.2018 issued by the Government of India.

13. Since the petitioner does not belong to any caste notified as Scheduled Caste in the State of Haryana, she had no legal right to hold the office of Sarpanch of a Gram Panchayat seat reserved for the Scheduled Castes. Therefore, the authorities were fully justified in ordering her removal from the said post. Issue No.(i) is accordingly decided in the negative.

Issue No.(ii):

14. As regards the issue that the authorities under the 1994 Act did not have the jurisdiction to decide the matter, as it fell within the exclusive domain of the Election Tribunal under Section 176 of the 1994 Act, suffice it to say that the said issue is no more *res integra* as the same was considered and decided by a Division Bench of this Court in "***Nisva @ Nisha Khatoon, Sarpanch v. State of Haryana and others***", 2025(3) RCR (Civil) 273, wherein it was, *inter alia*, held that the election of a candidate to the post of Sarpanch or Panch (as the case may be), could be 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, as both the said provisions operate in different fields and there is nothing contained therein to indicate that the said provisions exclude each other.

14.1 It is noticeable that even a Special Leave to Appeal (C) No.14913 of 2025 preferred against the aforesaid Division Bench judgment in the case of *Nisva @ Nisha Khatoon* (supra) has been dismissed by the Hon'ble Supreme Court of India vide order dated 21.05.2025. Therefore, the impugned orders dated 20.01.2024 (Annexure P-5) passed by the learned Deputy Commissioner, Karnal, and order dated 27.02.2024 (Annexure P-8) passed by the learned Divisional Commissioner, Karnal; do not suffer from any jurisdictional error. Issue No.(ii) stands decided, accordingly.

15. Considering the totality of facts and circumstances, I find no merit in the present writ petition, and the same stands dismissed and is accordingly disposed of.

16. All pending application(s), if any, shall also stand closed.

17. Before parting, this Court places on record its deep appreciation for the valuable assistance rendered by the learned Amicus Curiae.

09.10.2025

Apurva

**(HARSH BUNGER)
JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No