

2025:PHHC:108874



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

**CWP-143-2024 (O&M)
Date of Decision: 22.08.2025**

Ajida @ Ajida Bano

..... 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.

Mr. Kamal Deep Sehra, Advocate
for respondent No.6.

HARSH BUNGER J.

Petition herein is, *inter alia*, for issuance of a writ in the nature of Certiorari for setting aside order dated 23.06.2023 (Annexure P-5) passed by the learned Deputy Commissioner, Nuh, whereby the petitioner has been removed from the post of Sarpanch of Gram Panchayat, Village Dalawas, Tehsil Tauru, District Nuh, Haryana.

1.1 A further prayer has been made for setting aside order dated 20.12.2023 (Annexure P-7) passed by the learned Divisional Commissioner, Faridabad, whereby an appeal filed by the petitioner against the aforesaid order dated 23.06.2023 (Annexure P-5) has been dismissed.

2. Briefly, the petitioner was elected as Sarpanch of Gram

Panchayat, Village Dalawas, on 02.11.2022. Subsequently, respondent No.6 – Saheen Khan lodged a complaint against the petitioner alleging that the educational qualification certificate submitted by her, showing her to be 8th class pass from Saraswati Shiksha Sansthan (Junior High School), Roshanpur, District Gautam Budh Nagar (Uttar Pradesh), was forged and fabricated.

2.1 On the basis of the aforesaid complaint, an enquiry was conducted by the Sub Divisional Officer (Civil), Tauru, who submitted a report dated 08.02.2023 (Annexure P-1), observing that the School Leaving Certificate produced by the petitioner along with her nomination papers had not been verified by the District Basic Education Officer, Gautam Budh Nagar, and was, therefore, unverified. Pursuant thereto, a show cause notice dated 24.03.2023 (Annexure P-2), along with a copy of the enquiry report, was issued to the petitioner, but no reply was submitted by her. A second show cause notice dated 05.05.2023 (Annexure P-3) was thereafter served upon the petitioner, to which she furnished her reply dated 12.05.2023 (Annexure P-4). Upon consideration of the matter, the Deputy Commissioner, Nuh, came to the conclusion that the petitioner had contested the election to the post of Sarpanch of Village Dalawas without possessing the minimum prescribed educational qualification, and had misled the administration by submitting false affidavit/documents. Consequently, the petitioner was removed from the office of Sarpanch, Gram Panchayat, Village Dalawas, vide order dated 23.06.2023 (Annexure P-5).

2.2 Feeling aggrieved against the aforesaid order dated 23.06.2023 (Annexure P-5), the petitioner preferred an appeal before the learned Divisional Commissioner, Faridabad, however, the same was also dismissed vide order dated 20.12.2023 (Annexure P-7).

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

4. Learned counsel for the petitioner submits that the authorities below have erred in law and facts while passing the impugned orders, and that the petitioner has been illegally removed from the post of Sarpanch of Gram Panchayat, Village Dalawas. It is submitted that the certificate produced by the petitioner in support of her eligibility to contest the election has not been duly verified from the competent authority, and, therefore, the entire proceedings stand vitiated and are liable to be set aside. It is further contended that respondent No.6 – Saheen Khan, who lodged the complaint, has also instituted an election petition against the petitioner, and thus, the complaint before the District Authorities was not maintainable.

4.1 With the aforesaid submissions, learned counsel for the petitioner has prayed for setting aside order dated 23.06.2023 (Annexure P-5) passed by the learned Deputy Commissioner, Nuh and order dated 20.12.2023 (Annexure P-7) passed by the learned Divisional Commissioner, Faridabad.

5. Per contra, learned State counsel as well as learned counsel for respondent No.6 have opposed the submissions made on behalf of the petitioner by contending that the petitioner contested the election to the post of Sarpanch on the strength of a School Leaving Certificate, which was not verified by the concerned school or the District Basic Education Officer, Gautam Budh Nagar. It is further submitted that apart from what is already on record, the petitioner has failed to produce any material or document to establish the authenticity or genuineness of the certificate submitted by her at the time of filing nomination papers in support of her educational

qualification. It is thus submitted that since the petitioner does not fulfill the minimum educational qualification prescribed under the proviso to Section 175(v) of the Haryana Panchayati Raj Act, 1994 (for short, 'the 1994 Act'), her removal from the post of Sarpanch is legal and justified. Accordingly, prayer for dismissal of the present writ petition has been made.

6. Heard.

7. At the outset, it is noticed that in terms of Section 175(v) of the 1994 Act, the minimum qualification for a woman candidate to contest election is middle class pass. Section 175(v) of the 1994 Act reads as under:-

“[175]. Disqualifications.-- [] No person shall be a Sarpanch, [---] or a Panch of a Gram Panchayat or a member of a Panchayat Samiti or Zila Parishad or continue as such who-
(a) to (u) xxxx

(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; or”

8. In the present case, it is not in dispute that the petitioner was elected as Sarpanch of Gram Panchayat, Village Dalawas. However, upon a complaint filed by respondent No.6 alleging that the petitioner did not possess the minimum educational qualification required for contesting the election to the post of Sarpanch, an inquiry was conducted. The documents produced by the petitioner in support of her educational qualification were found to be unverified. Consequently, after affording due opportunity of hearing to the petitioner, she was removed from the office of Sarpanch by the learned Deputy Commissioner, Nuh, vide order dated 23.06.2023

(Annexure P-5). The said order was further upheld by the learned Divisional Commissioner, Faridabad, vide order dated 20.12.2023 (Annexure P-7), by observing as under:-

“ - x - x -

After carefully listening to the arguments of both the parties and perusing the records of the lower court, it was found that the verification report regarding the transfer certificate of Class VIII pass of the Appellant was sent to the Inquiry Officer vide letter number 14178 dated 17.01.2023 by the Basic Education Officer, Gautam Budh Nagar, Uttar Pradesh as unverified. On the other hand, another report has been issued by the above mentioned school. On which he has written that the transfer issued to the appellant is correct. Third, a report which has been made available to Munshil Ali, son of Mansool Ali, resident of village Dautana, Tehsil Chhata, District Mathura, under the Right to Information Act, vide letter number 14172/2022/23 dated 17.01.2023, which is page no. 97 of the file of the lower court. But according to this, the above school has completely denied that the appellant has not received any education from their said Junior High School, nor is any record of the Appellant is available in their school.

In view of the above suspicious and controversial situation, this court has also ordered the school management to come present along with the following record:-

- (1) Examination result register from class 6 to class 8.*
- (2) S.L.C. Counter file.*
- (3) Admission Register of Class 6 for the year 1990-91.*
- (4) Resolution Register of Education Committee.*

Vide letter number 886/Peshi dated 20.11.2023. An employee of the school came present but did not present the desired records and told that all the records were taken by the institution from which the school was recognized when the recognition ended, all the records pertaining to the students was taken by the said institution took all related records.

Regarding the second allegation also, this court wrote to

the Women and Child Development Officer about presenting the records of the appellants. Their employee Shri Bhurmal, Assistant appeared before the inquiry officer and confirmed the statements recorded on the basis of records and told that the Appellant took charge as Anganwadi worker on 01.07.1987 and received the last salary on 07.07.1998. Looking at the records, it is clear that the monthly salary has been received by the appellants by signing the receipt in Hindi.

On the basis of above discussion, I have come to the conclusion that in the transfer certificate of the Appellant, she has been shown as having passed 8th class by Junior High School, Roshanpur in the year 1993, whereas on the basis of records, it has been proved that the Appellant had joined the Women and Child Development Department as an Anganwadi worker on 01.07.1987 in village Khushpuri and has received her last salary on 07.07.1998. In such a situation, the same person cannot do government job and study regularly. The eighth class pass transfer certificate produced by the appellant is fake and void of verification of education. Therefore, she does not fulfill the minimum educational qualification of eighth class pass prescribed by the government for the post of Sarpanch and falls in the category of ineligibility under Section 175(V) of the Panchayati Raj Act 1994 and action taken against her under Section 51(3)(b) of the said Act is justified. Therefore, while maintaining the order under appeal, the appeal of the applicant is dismissed finding it without force.”

8.1 A perusal of the aforesaid observations reveals that apart from noticing the enquiry report which recorded that the certificate produced by the petitioner along with her nomination papers was not verified from the concerned School/District Basic Education Officer, Gautam Budh Nagar, the learned Commissioner, on his own level, also requisitioned the relevant records, i.e. the examination class registers from Class 6th to Class 8th of the school from which the petitioner claims to have passed 8th class, the counter

file of the School Leaving Certificate, and the admission register of Class 8th for the year 1990-91. It is further noticed that although an employee of the concerned school appeared before the learned Commissioner, he failed to produce the requisite records, and rather stated that the same had been taken away by the Board which had recognized the school.

9. It is apparent from the above that, so far as the educational qualification of the petitioner is concerned, the same has neither been verified nor proved by the concerned school from which petitioner claims to have passed the 8th class examination. The petitioner has also not made any effort to establish the authenticity or genuineness of the School Leaving Certificate relied upon by her. Possession of a Middle Class Pass certificate is the minimum prescribed qualification for a woman candidate to contest the election, in terms of Section 175(v) of the 1994 Act, however, the mark-sheet of the 8th class examination, which the petitioner claims to have passed, has not been placed on record of this writ petition.

10. In view of the above, it can be safely concluded that the petitioner does not possess the minimum educational qualification (middle class pass for woman candidate) prescribed for contesting the election to the post of Sarpanch and, therefore, she has been rightly removed from the said post.

11. With regard to the contention raised by the petitioner that since respondent No.6 has also filed an election petition, the complaint filed by her before the District Authorities could not be entertained under Section 51 of the 1994 Act; suffice it to say that if the petitioner had any objection as regards the maintainability of the complaint under Section 51 of the 1994 Act, then she should have availed her appropriate remedies before the competent Court at the relevant stage by challenging such proceedings.

However, no such recourse appears to have been taken by the petitioner.

12. That apart, I am of the considered view that once the petitioner had duly participated in the proceedings initiated against her under Section 51 of the 1994 Act and also suffered an adverse order, she cannot now be permitted to turn around and raise an objection to the maintainability of such proceedings merely on the ground that an election petition had also been filed against her. At the cost of repetition, it is reiterated that any such objection was required to be raised by the petitioner at the earliest possible opportunity, and not after participation in the proceedings and the passing of an adverse order against her.

13. Keeping in view the totality of circumstances, I find no merit in the present writ petition and the same is accordingly dismissed.

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

22.08.2025
Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No