

2025:PHHC:068198-DB



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

LPA-814-2025 (O&M)
Reserved on : 14.05.2025
Date of Pronouncement: 21.05.2025

WarsinaAppellant

Versus

State of Haryana and othersRespondents

CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Farukh Abdullah, Advocate, for the appellant.

SUDHIR SINGH

The challenge in the instant intra Court appeal is to the order dated 22.11.2024 passed by the learned Single Judge of this Court, whereby writ petition (CWP-31458-2024) filed by the appellant was dismissed.

2. Before the learned Single Judge, the appellant had laid challenge to the orders dated 21.08.2024 and 04.11.2024 (Annexures P-10 and P-11 with the writ petition), passed by the Deputy Commissioner, Nuh and the Divisional Commissioner, Faridabad, respectively.

3. The brief facts of the case are that the elections to the post of Sarpanch and Members of Panchayat for village

Nawabgarh were held in November, 2022. The appellant having contested the election for the post of Sarpanch, was declared elected. At the time of her election, she had submitted Class 8th certificate issued by Saraswati Shiksha Sansthan (Junior High School), Roshanpur, Gautam Buddha Nagar. A complaint dated 10.11.2022 was filed alleging the aforesaid certificate to be forged one. Besides that it was also alleged that the appellant and her husband had been in illegal occupation of the Panchayat land, wherein she and her family members had built a house and been residing therein. Initially, the Deputy Commissioner, Nuh, vide order dated 15.09.2023 removed the appellant from the post of Sarpanch, but in an appeal, the Divisional Commissioner, vide his order dated 18.10.2023 set aside the said order and directed the Deputy Commissioner, Nuh to conduct an inquiry into the matter and further decide the matter within a period of two months by passing a speaking order. Pursuant thereto, the Deputy Commissioner, Nuh, vide order dated 03.05.2024 reinstated the appellant. In an inquiry conducted by a Committee, it was reported that the husband of the appellant was in unauthorized occupation of the Panchayat land and thus, the Deputy Commissioner, Nuh, vide order dated 21.08.2024, removed the appellant from the post of Sarpanch in terms of Section 51(3)(b) and (c) of Haryana Panchayati Raj Act, 1994 (for short 'the 1994

Act'). The appellant challenged the said order by way of an appeal, but the Divisional Commissioner, vide order dated 04.11.2024, dismissed the said appeal. As noticed above, the said orders have been affirmed by the learned Single Judge, while dismissing the writ petition.

4. Learned counsel appearing for the appellant has vehemently argued that the Principal of the concerned School wrote a letter dated 15.05.2024 to the Enquiry Committee intimating that the appellant had passed 8th Class examination from the said School, but the Deputy Commissioner, Nuh, passed the order dated 21.08.2024 without considering the said letter and further without taking into consideration the enquiry report submitted by the Committee in its entirety. It is further argued that as a matter of fact, the husband of the appellant had never been in illegal or unauthorized possession of the Panchayat land. It is further argued that the complaint submitted by the complainant- party, on the basis of which, the inquiry was conducted, was a *mala fide* attempt, inasmuch as, the said complainant-party got a false FIR No.125 dated 01.05.2023, under Sections 420, 467, 468, 471, 120-B and 506 IPC registered against the appellant at Police Station, Dhankaur, District Gautambudh Nagar. It is yet further argued that the provisions of the Constitution of India specifically bar any interference by the authorities in the

electoral matters, except by way of an election petition. While placing reliance upon the judgment of the Division Bench of this Court in **Suman vs. State of Haryana and others**, 2024 (3) RCR (Civil) 287, it is argued that in any inquiry to be conducted by the authorities against a Sarpanch or Member Panchayat, the affected party must be given a chance to cross-examine the witnesses. Reliance is also placed upon a Single Bench judgment of Chhattisgarh High Court in **Kamla Devi vs. State of Chhattisgarh and others**, 2025 AIR (Chhattisgarh) 48; Madhya Pradesh High Court (Indore Bench) in **Reshma Bai vs. State of M.P. and others**, 2021 (1) MPWN 203; Madhya Pradesh High Court (Jabalpur Bench) in **Smt. Babita Lilhare vs Shri Surendra Rana and others**, 2004 (5) MPHT 79; Rajasthan High Court in **Ram Singh Rajpurohit vs. State of Rajasthan and others**, 2008 (36) RCR (Civil) 34 and a recent order of the Hon'ble Supreme Court in **Manisha Ravindra Panpatil vs. The State of Maharashtra & Ors.** Civil Appeal No.10913 of 2024 (arising out of SLP (C) No.15073/2024), decided on 27.09.2024. It is, accordingly, prayed that the impugned order passed by the learned Single Judge must be set aside.

6. We have heard learned counsel for the appellant and have also gone through the paper-book, including the impugned order passed by the learned Single Judge.

7. It may be noticed that the Divisional Commissioner, while passing the order dated 04.11.2024, had noticed that as per the report of the Committee constituted for conducting an inquiry in respect of the matter as regards the alleged forged certificate of the appellant, the School had tried to mislead the said Committee. It was further reported that the School Code of Saraswati Shiksha Sansthan is '9100306202', which was recognized only till Class 5th, whereas the transfer certificate for passing the Class 8th had been issued to the appellant by the said School. In the affidavit given by the father of the appellant to the said School, he deposed that he had taught the appellant at home till Class 5th. On the said affidavit, no name and the details of the Register of the stamp vendor was mentioned and the registration number of the Notary Public, from whom the said affidavit had been got attested were also not mentioned. Thus, it was found that the aforesaid certificate in respect of the educational qualification of the appellant was a forged one. In respect of unauthorized occupation on the Panchayat land during inquiry, it was found that eviction orders were passed by the Court of Sub Divisional Officer (Civil) and the Assistant Collector, First Class, Nuh and as per the demarcation report dated 08.05.2023, after the eviction orders, the

house of Fazal, husband of the appellant, was shown to have been built by illegally occupying the Panchayat land.

8. Learned Single Judge, while noticing the aforesaid fact and further relying upon the judgment of the Hon'ble Supreme Court in **Janabai** vs. **Additional Commissioner**, 2018 (18) SCC 196, has held that by the aforesaid acts and conduct of hers, the appellant had incurred disqualification under Section 175 (1) (n) of the 1994 Act.

9. Learned counsel for the appellant could not dispute the aforesaid factual position, except the plea raised that before arriving at any conclusion in the inquiry proceedings, the appellant ought to have been granted adequate opportunity to cross-examine the witnesses. However, we do not find any merit in the said argument. It may be noticed that the learned counsel for the appellant could not controvert the report of the Committee in respect of the educational certificate of 8th class, produced by the appellant at the time of her election as Sarpanch of the village. The appellant cannot be heard saying that no proper inquiry was conducted in the matter for the reasons that the earlier order dated 15.09.2023 passed by the Deputy Commissioner, Nuh, in respect of the removal of the appellant from the post of Sarpanch was set aside by the Divisional Commissioner on 18.10.2023 with a direction to

conduct a proper inquiry into the matter. It was only thereafter, that a proper inquiry was conducted by constituting a Committee and on the basis of the said report, the order dated 21.08.2024 was passed by the Deputy Commissioner. The appellant has been removed from the post of Sarpanch firstly, for producing a forged certificate for contesting the election and secondly, for illegally and unauthorizedly occupying the Panchayat land. The reliance of the appellant on the aforesaid judgments is of no help to her. A Division Bench of this Court in LPA-1057-2024 titled as Nisva @ Nisha Khatoon Vs. State of Haryana and others, decided on 03.05.2025, while considering the judgment in **Suman's** case (supra), has held as under:-

“11.1. We have gone through the above-referred judgment in the case of Suman (supra); however, we do not agree with the contention so raised on behalf of the appellant. A careful perusal of the above-referred judgment in Suman's case (surpa), would show that the Division Bench of this Court held that the word “enquiry” as mentioned in Section 51(3) of the 1194 Act, requires to be an enquiry of quasi judicial in nature inasmuch as that the candidate, who

has already been elected, must be given a fair and proper opportunity to cross-examine the witnesses and the documents produced. Therefore, a regular enquiry as may be envisaged under the Service Rules, is not contemplated under Section 51(3) of the 1994 Act. In our considered view, the enquiry in the nature of quasi judicial would require association of the Sarpanch or the Panch (as the case may be) with the enquiry so as to enable such Sarpanch or the Panch, to put forth his claim and also afford him an opportunity to ask for cross-examination of witnesses or documents. In case, the Sarpanch or the Panch has been associated with the enquiry and sufficient opportunity was afforded to him to put forth his claim and/or to ask for cross-examination of witnesses or documents; in our considered view, that would suffice the requirements of a quasi judicial enquiry as envisaged under Section 51(3) of the 1994 Act.”

Still further, the order of the Hon’ble Supreme Court in **Manisha Ravindra Panpatil’s** case (supra) arises out of different facts as well. It was observed by the Hon’ble

Supreme Court that the orders were passed by the authorities in a lackadaisical manner, without making any effort towards conducting a fact-finding exercise so as to confirm whether the allegations levied by the private respondents were sufficiently made out. It was further observed that there was nothing on record to suggest that any objection of the appellant's family (therein) having encroached upon the government land was ever raised. The said case is also distinguishable on facts. Similarly, the other judgments, relied upon by learned counsel for the appellant, are not applicable to the facts of the present case.

10. As noticed above, in the instant case, the factum of unauthorized and illegal occupation of the Panchayat land was established on record on the basis of the orders passed by the authorities, wherein it was clearly found that husband of the appellant had been in an unauthorized possession of the Panchayat land. So far as the certificate of 8th Class is concerned, on the basis of the record of the School and the inquiry conducted in this regard by associating the said School, it was found that the aforesaid certificate was a forged one.

11. In view of the above, we do not find any patent illegality or perversity in the order passed by the learned Single judge.

12. Accordingly, finding no merit, the present appeal is hereby dismissed.

13. Pending application(s), if any, shall also stand disposed of.

**(SUDHIR SINGH)
JUDGE**

**(ALOK JAIN)
JUDGE**

21.05.2025

Ajay Prasher

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