
(1994) 12 P&H CK 0027

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 17781 of 1994

Manjit Kaur

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 15-12-1994

Acts Referred:

Haryana Panchayati Raj Act, 1994 — Section 175

Citation : (1995) 109 PLR 641

Hon'ble Judges : Swatanter Kumar, J;A.P. Chowdhri, J

Bench : Division Bench

Advocate : S.P. Singh, for the Appellant; N.S. Bhinder, District Attorney, for the Respondent

Judgement

A.P. Chowdhri, J.—Assailed in this writ petition is order Annexure P/1 dated 5.12.1994 passed by the Returning Officer rejecting the nomination paper of the petitioner for the office of Sarpanch from the reserved Ward No. 20, which has been reserved for woman candidate of general category. The ground for rejection, as stated in Annexure P/1, is that the petitioner owed to the Panchayat a sum of Rs.13,789.45 paise in the account of Jawahar Rozgar Yojna fund and another sum of Rs.28,117.50 paise towards another fund in her capacity as Ex. Sarpanch of the Gram Panchayat. The case of the petitioner is that she never held the office of Sarpanch or even a Panch at any point of time in her life and there was, thus, no question of owing any such amount under any account. Her further case is that her husband Rupinder Singh remained Sarpanch of the Gram Panchayat, Berkheri, during the period 1988 to 1991. If any amount was held to be due against him the liability could not be fastened against her. Even against the husband the provisions of Section 53(5) barred the remedy of recovery because of lapse of period of six years from the date of alleged misapplication and a period of two years from the cessation of office. Be that as it may, the main contention of learned counsel for the petitioner is that for any disqualification alleged to have been incurred by her husband, her nomination paper could not be rejected. Reference to Section 175 of the Haryana Panchayat

Raj Act relating to disqualification makes it clear that it is only the person who commits one of the acts specified therein that such a person incurs disqualification. In this view of the matter we find that the order rejecting nomination paper of the petitioner is altogether arbitrary. We, therefore, quash the order Annexure P/1 and direct the Returning Officer to treat the nomination paper filed by the petitioner to be a valid one and take further appropriate action, such as allotment of symbol to her to enable to contest the election according to law. A copy of this order be given dasti today attested by Reader of the Court.