

**HON'BLE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA**

CWP No.6245/2020

Decided on: 31.12.2020

Hari Singh Pachnayak

...Petitioner.

Versus

State of Himachal Pradesh & others

...Respondents.

.....
Coram

Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.

Hon'ble Ms Justice Jyotsna Rewal Dua, Judge.

Whether approved for reporting?¹ No.

For the petitioner : Mr. Neel Kamal Sood, Advocate.

For the respondents : Mr. Ashok Sharma, Advocate General with Mr. Vinod Thakur, Mr. Vikas Rathore, Mr. Shiv Pal Manhans, Mr. Nand Lal Thakur, Additional Advocates General, Mr. Bhupinder Thakur, Ms. Seema Sharma, & Mr. Yudhvir Thakur Deputy Advocate Generals, for respondents/State.

(Through Video conferencing)

Jyotsna Rewal Dua, Judge.

The petitioner's grievance is in respect to the changes made in the Election Roster of Panchayat Samiti Kulag falling in Kupvi Block of District Shimla for ensuing elections to the Panchayati Raj Institutions of the respondents/State.

¹ Whether reporters of the local papers may be allowed to see the judgment?

2. Learned counsel for the petitioner submits that the Panchayat Samiti Kulag was shown as un-reserved in the notification dated 15.12.2020, however, two days later on 17.12.2020 another notification was issued reflecting the same Panchayat Samiti reserved for women belonging to un-reserved category.

3. Learned Advocate General has submitted that the matter of change of Panchayat Election Roster of Panchayat Samiti Kulag (Kupvi Block) has already been inquired into by the respondents while examining a complaint received in this regard. The inquiry was conducted and report was submitted by Additional District Magistrate (L&O) Shimla, who concluded as under:-

*“I have gone through the entire record made available to me and found that the notification No. CPL-MA (Panchayati Raj) 125/2020-6451 issued by the Sub Divisional Officer (C) Chopal on 15.12.2020 (**Annexure-A**) w.r.t to the reservation roster for Panchayat Samiti Members of Development Block Kupvi related to reservation for the SC women and SC category, has been done on the basis of percentage of SC women out of SC population which is wrong. The reservation for SC women and SC category is to be done on the basis of percentage of SC women out of the total population of Dev. Block. The second notification issued by him on 17.12.2020 (**Annexure-B**) is correct as per the guidelines dated 24.9.2020 issued by the Govt. The notification issued on 15.12.2020 by the Sub Divisional Officer (C), Chopal is based on the ambiguous data supplied by the BDO Kupvi in column No.14 and 22 (**Annexure-C**) which is as under:-*

Column No.14-----SC Female%

Column No.22-----SC Female%

*The above status was later on clarified by the BDO Kupvi by adding “out of SC population” in column No.14 and “out of total population” in column No.22 (**Annexure-D**) and revised notification has accordingly been rightly issued by Sub-Divisional Officer (C), Chopal on 17.12.2020 vide No. CPL-MA(Panchayati Raj) 125/2020-6536-40.”*

When notification dated 15.12.2020, was found to have been issued on incorrect & ambiguous data then it was essentially required to be rectified by the respondents. The mistake was accordingly rectified in accordance with law by issuing notification on 17.12.2020. Respondents were within their rights in issuing the corrected notification.

4. Another argument raised by learned counsel for the petitioner is that the Panchayat Samiti Kulag could not have been reserved for women belonging to un-reserved category. According to the respondents/State, while reserving the concerned Panchayat Samiti for women belonging to un-reserved category, the Election Reservation Roster has been correctly applied on the basis of relevant data and in accordance with provisions of applicable Act and the Rules framed thereunder.

5. Learned counsel for the petitioner could not substantiate the plea of Election Reservation Roster having been

wrongly applied to the seat in question or that the seat was essentially required to be kept open for un-reserved category. Accordingly we do find any merit in the instant petition and the same is dismissed. The parties are left to bear their own costs. Pending application(s), if any, shall also stand disposed of.

(Tarlok Singh Chauhan)
Judge

(Jyotsna Rewal Dua)
Judge

December 31, 2020 (rohit)