



**IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA**

**CWP No. 6998/2026
Decided on: 07.05.2026**

Sandip Kumar

...Petitioner

Versus

State Election Commissioner & Ors.

....Respondents.

.....
Coram

Ms. Justice Jyotsna Rewal Dua, Judge.

Whether approved for reporting?¹

For the petitioner:

**Mr. Ajay Sharma, Sr. Advocate
with Mr. Atharv Sharma, Advocate.**

For the respondents:

**Mr. Surender Sharma, Advocate
for respondent No.1.**

**Ms. Seema Sharma, Deputy
Advocate General for respondents
No.2 to 5.**

**Mr. Aishwarya Chauhan, Advocate,
vice Mr. Ajay Chauhan, Advocate,
for respondent No.6.**

Jyotsna Rewal Dua, J.

Notice. Mr. Surender Sharma, learned counsel, Ms. Seema Sharma, learned Deputy Advocate General and Mr. Aishwarya Chauhan, learned vice counsel, accept notice on behalf of respondents No.1, 2 to 5 and 6 respectively.



2. Respondent No.5 rejected the nomination paper filed by the petitioner for Ward No.6 (reserved for Scheduled Caste category), Nagar Panchayat Amb, District Una, vide order dated 04.05.2026, hence, the present writ petition.

3. The petitioner filed his nomination paper for contesting the elections in Nagar Panchayat Amb, District Una, from Ward No.6 (reserved for Scheduled Caste category). Along with the nomination paper, the petitioner furnished a bona fide Himachali certificate as well as a Scheduled Caste certificate issued by the Tehsildar, Amb, District Una, Himachal Pradesh. The Assistant Returning Officer-cum-Tehsildar, Amb, rejected petitioner's nomination paper on the ground that the petitioner was ordinarily residing in Village and Post Office Bahera, Sub-Tehsil Bhunga, District Hoshiarpur, Punjab, and was a migrated person. It was further observed that the benefit of reservation is linked with the caste status in the State of origin and that, in view of Articles 341 and 342 of the Constitution of India, recognition of Scheduled Castes and Scheduled Tribes is State-specific. Consequently, the benefit of reservation is confined only in the State for which the notification has been issued. Placing reliance upon ***Marri Chandra Shekhar Rao Vs. Dean, Seth G.S. Medical College & Ors²***, ***Action Committee on Issue of Caste Certificate***

² (1990) 3 SCC 130,



Vs. Union of India & Ors³. and ***Bir Singh Vs. Delhi Jal Board & Ors***⁴., as also certain office clarifications issued by Ministry of Social Justice and Empowerment Department of Social Justice and Empowerment (Scheduled Castes Development Division) Government of India, the claim of the petitioner came to be rejected.

Learned Senior Advocate for the petitioner submits that once the petitioner had been issued Bona Fide Himachali & Scheduled Caste certificate by the competent authority, his nomination for contesting the election from Ward No.6, Nagar Panchayat Amb, reserved for the Scheduled Caste category, could not have been rejected. Learned Senior Advocate further submits that though the father of the petitioner is a resident of the State of Punjab, but petitioner's mother belongs to the State of Himachal Pradesh and has inherited property in the State of Himachal Pradesh. The father and mother of the petitioner belong to the Kabirpanthi caste, which is recognized as a Scheduled Caste in both the States. Reliance was placed upon ***Naveen Kumari Vs. State of H.P. & Ors.***⁵ & ***State of H.P. & Ors. Vs. Naveen Kumari***⁶ to contend that once the father and mother of the petitioner belong to the same caste, which is recognized as a Scheduled Caste in both the States, and when the bona fide resident certificate and Scheduled Caste certificate had

³ (1994) 5 SCC 244

⁴ (2018) 10 SCC 312

⁵ CWP No. 5951/2020 a/w connected matter decided on 22.02.2021

⁶ Review Petition No. 47/2021 decided on 04.09.2021



been issued to the petitioner in the State of Himachal Pradesh, the Assistant Returning Officer-cum-Tehsildar could not have rejected petitioner's nomination for contesting the election from Ward No.6, Nagar Panchayat Amb, reserved for Scheduled Caste category candidates.

4. Learned counsel for respondent No.1 besides placing reliance upon ***Subeena Sabri vs. State of H.P. & Ors.***⁷ has raised preliminary objections regarding the maintainability of the present writ petition in view of Section 296(1)(c) of the Himachal Pradesh Municipal Act, 1994. In terms of Section 283 of the Act, no election held under the Act shall be called in question except by way of an election petition presented in accordance with the provisions contained in Chapter XVII thereof. Further, Section 296 of the Act provides the grounds for setting aside an election, one of such grounds being improper rejection of nomination. The said provision reads as under: -

"296. Grounds for setting aside election.- (1) If the authorised officer is of the opinion –

- (a) that on the date of his election the elected person was not qualified, or was disqualified to be elected under this Act; or*
- (b) that any corrupt practice has been committed by the elected person or his agent or by any other person with the consent of the elected person or his agent; or*
- (c) that any nomination has been improperly rejected; or*

⁷CWP No.8043 of 2021 decided on 19.05.2022.



(d) that the result of the election, in so far as it concerns the elected person, has been materially affected –

(i) by the improper acceptance of any nomination; or

(ii) by improper reception, refusal or rejection of any vote or the reception of any vote which is void; or

(iii) by any non-compliance with the provisions of this Act or of any rule made under this Act;

the authorised officer shall set aside the election of the elected person.

(2) When an election has been set aside under sub-section (1), a fresh election shall be held.”

5. In view of the specific provisions of Section 296(1)(c), learned Senior Advocate for the petitioner, at this stage, seeks permission to withdraw this petition with liberty reserved to avail appropriate remedy, in accordance with law, for redressal of petitioner's grievances, at an appropriate stage.

Granting such permission, the instant petition is dismissed as withdrawn. All pending miscellaneous application(s) to also stand disposed of.

**Jyotsna Rewal Dua
Judge**

07th May, 2026_(rohit)