



**STATE ELECTION COMMISSION, HARYANA  
NIRVACHAN SADAN, PLOT NO. 2, SECTOR- 17  
PANCHKULA- 134109**

Website: [www.secharyana.gov.in](http://www.secharyana.gov.in)  
Email id: [supdtpanda.sec@hry.nic.in](mailto:supdtpanda.sec@hry.nic.in)

Phone : +91172 258 4810  
Fax : +91172 258 5904

**Order**

**No.SEC/3ME/2024/529** Whereas, The State Election Commission, Haryana vide notification No. SEC/1ME/2022/481 dated 23.05.2022 had issued programme for the conduct of general elections of 18 Municipal Councils and 28 Municipal Committees including Municipal Committee, Ismailabad, district Kurukshetra. The elections of these municipalities were conducted on 19.06.2022 and the results were declared on 22.06.2022. Names of the elected Presidents and Members were notified by the State Election Commission, Haryana vide its Notification No. SEC/1ME/2022/6120 dated 04.07.2022. Smt. Nisha Kano Vangha wife of Sh. Puneet Garg was elected President of Municipal Committee, Ismailabad, district Kurukshetra during these elections and her name had accordingly been notified in this state gazette vide this notification.

2. Whereas, Sh. Sube Singh and other residents of Ismailabad moved with a complaint dated 03.07.2022 in the State Election Commission, Haryana against Smt. Nisha Kano Vangha, the newly elected President of Municipal Committee, Ismailabad alleging therein inter-alia that Smt. Nisha Kano Vangha is a citizen of Kenya and she was having dual citizenship in 2015 which is against the Constitution of India and amounts to cheating and false representation. It was further alleged that Smt. Nisha Kano Vangha had produced a card of Overseas Citizen of India and such a cardholder is neither entitled nor to be elected on any

Constitutional post like, Chairperson of a Municipal Committee. The complainant had requested to take action against Smt. Nisha Kano Vangha.

3. Whereas, the State Election Commission, Haryana sent the abovesaid complaint to the Deputy Commissioner, Kurukshetra vide No. SEC/3ME/2022/6295 dated 13.07.2022 with a request to send the enquiry report to the State Election Commission, Haryana. In response to the letter, the Deputy Commissioner, Kurukshetra sent a report vide memo No. 3246/LFA dated 15.03.2023 to the State Election Commission, Haryana enclosing a letter No. 26001/Misce/63/2023-OCI dated 09.03.2022 they had received from the Under Secretary to Govt. of India, Ministry of Home Affairs (Foreigners Division, New Delhi). According to the said report, Smt. Nisha Kano Vangha was born on 07.10.1986 at Mombasa, Kenya having Kenyan nationality bearing Passport No. AI566161 and OCI Card has been issued to her with No. A1141796 on dated 25.07.2012 by the Indian Mission in Kenya.

4. Keeping in view the above facts, a 'show cause notice' was issued by the State Election Commission, Haryana vide No. SEC/ME/2023/701 on dated 17.04.2023 to Smt. Nisha Kano Vangha granting her an opportunity to produce evidence in her support to prove that she is a citizen of India, failing which it would be presumed that she had contested her election for the post of President, Municipal Committee, Ismailabad without being qualified for the same on the ground that she was not a citizen of India and therefore, she is liable to be removed from the said office as per provisions of the Haryana Municipal Act, 1973.

5. Whereas, Smt. Nisha Kano Vangha has submitted her reply to the show cause notice dated 17.04.2023 in the State Election Commission, Haryana on 06.07.2023 stating in her defence, inter-alia that she is not a citizen of Kenya

as she had already renounced her citizenship of Kenya on 28.07.20214 by submitting an affidavit to the Republic of Kenya. (Copy of affidavit was also annexed with the reply) However, Smt. Nisha Kano Vangha has not mentioned any details like by what mode and to which authority she had submitted the said affidavit and whether the same was accepted and the competent authority had issued any certificate/order regarding her renouncing the Kenyan citizenship or not?

6. It is also relevant to mention here that the copy of said affidavit has been sent by the State Election Commission, Haryana vide letter No. SEC/3ME/2023/1341 dated 13.07.2023 to the Deputy Commissioner, Kurukshetra with the request to get the veracity (correctness) of the affidavit submitted by Smt. Nisha Kano Vangha to the Kenyan Government regarding renunciation of her Kenyan citizenship by sending the same to the Kenyan High Commission in Delhi for verification and submit a report to the State Election Commission, Haryana. However, no report in this regard has been received from the Kenyan High Commission in New Delhi.

7. Whereas despite prolonged correspondence by the Deputy Commissioner, Kurukshetra with regard to letter dated 13.07.2023 issued by this office for verification of affidavit submitted by Smt. Nisha Kano Vangha, but no information has been received from the Kenyan High Commission, New Delhi. Thereafter this office has taken up the matter with The Ministry of Home Affairs (Foreigners Division), New Delhi for verification of documents of Smt. Nisha Kano Vangha regarding her Indian Citizenship vide memo No. SEC/3ME/2024/42 dated 10.01.2024 inter-alia requesting to convey to the State Election Commission, Haryana that on which date Smt. Nisha Kano Vangha wife of Sh. Puneet Garg, Municipal Committee, Ismailabad, district Kurukshetra had applied for citizenship of India and on which date she legally acquired Indian Citizenship?"

8. Whereas, Smt. Nisha Kano Vangha was also asked to submit relevant document/information vide this office memo No.SEC/3ME/2024/43, dated 10.01.2024 as under:-

**“In reference to your reply submitted on dated 06.07.2023 before the Hon’ble State Election Commissioner, Haryana, after carefully examination, in which you have not been able to establish that at the time of election of you were citizen of India nor prove that you had ever applied for Indian citizenship.**

**I am directed to refer to you that submit the relevant documents/proof in this regard, within a week to the State Election Commission, Haryana, Panchkula failing which, it will be presumed that you have nothing to say in this matter and liable to removed from the post of President, Municipal Committee, Ismailabad as per provisions of the Haryana Municipal Act, 1973.”**

Reminder was also issued to Smt. Nisha Kano Vangha on dated 19.02.2024, however but she has not provided any information or document in this regard for the reasons best known to her.

9. Whereas, in response to State Election Commission letter dated 10.01.2024, the Ministry of Home Affairs, Government of India Foreigners Division (Citizenship Wing), New Delhi has sent its response vide their memo No. F. No. 26030/18/2024-IC-I dated 04.03.2024 which is reproduced as under:-

**“As per the “Online Citizenship Module” Smt. Nisha Kano Vangha has applied for Indian citizenship under Section 5(1)(g) of the Citizenship Act, 1955 vide MHA file No. 2023060103 dated 14.12.2023 and presently the citizenship application is pending with Superintendent of Police, Kurukshetra (Haryana) for investigation. Once the online file is received from the State Government of Haryana the same will be processed as per the relevant provisions and procedure on merits.”**

10. Whereas, after perusal of the new facts received from the Ministry of Home Affairs, Government of India, Foreigners Division (Citizenship Wing), New Delhi, a fresh Show Cause Notice was issued to Smt. Nisha Kano Vangha through registered post vide memo No. SEC/ME/2024/423-424 dated 14.03.2024 and she

was asked to submit her reply on or before 02.04.2024. It was also mentioned that a case she wanted to be heard in person in this regard, she may appear before the Hon'ble State Election Commissioner on 05.04.2024. at 11:30 AM alongwith any documents in support of her claim.

11. Whereas, the State Election Commission vide its memo No. SEC/3ME/2024/416 dated 12.03.2024 has also sent a copy of Ministry of Home Affairs, Government of India Foreigners Division (Citizenship Wing), New Delhi, memo No. F. No. 26030/18/2024-IC-I dated 04.03.2024 to the Deputy Commissioner, Kurukshetra with the direction to take necessary action in the matter, as per the provision contained in the Section 16 (1) (a) of the Representation of People Act, 1950.

12. Whereas, Smt. Nisha Kano Vangha has submitted her reply to the Show Cause Notice issued on 14.03.2024 (Supra) in the State Election Commission on dated 02.04.2024 with the request to dismiss the complaint dated 03.07.2022 moved by Sh. Sube Singh and others and to withdraw all the subsequent show cause notices and communications, issued to her by the State Election Commission.

13. Whereas Smt. Nisha Kano Vangha appeared before the undersigned for personal hearing on 05.04.2024 alongwith her counsel Sh. Sahil Mangla, Advocate of District & Session Court, Kurukshetra and High Court of Punjab and Haryana, Chandigarh who also submitted his Vakalatnama in this regard.

14. Sh. Sahil Mangla, Advocate argued that, the State Election Commission, Haryana could exercise its powers under Section 13 I of the Haryana Municipal Act, 1973 suo-motto and not on the complaint of any individual. He further argued that if the complaint dated 03.07.2022 made by Sh. Sube Singh and others in this case is treated as Election Petition under Rule 75 of the Haryana

Municipal Election Rules, 1978 (in short election rules, 1978) then keeping in view of provisions under Article 243ZG of the Constitution of India, Section 275B of Haryana Municipal Act, 1973 read with Rule 74 of Election Rules, 1978 the same may be summarily dismissed keeping in view of provision of Rule 79 of Election Rules, 1978, as the complainant has not deposited Rs. 250/- as security under Rule 77 of Election Rules, 1978. The Ld. Advocate Sh. Sahil Mangla also admitted that his client Smt. Nisha Kano Vangha has applied for Indian Citizenship on 30.06.2023 under Section 5(1) (g) of the Citizenship Act, 1955, which is still pending. He also requested that his application dated nil received in this office on 02.04.2024 may be decided first.

15. Whereas, Smt. Nisha Kano Vangha had also filed CWP No. 6999 of 2024 in the Hon'ble Punjab and Haryana High Court inter-alia with the following prayers:-

**"i. A writ, order or direction in the nature of certiorari quashing the order dated 14.03.2024 (Annexure P-21) passed by the Election Tehsildar-cum-Sub Divisional Officer, Pehowa, District Kurukshetra whereby the vote of the petitioner has been cancelled under Section 16 (1) (a) of The Representation of People Act, 1950 in violation of letter dated 12.03.2024 (Annexure P-20) whereby referring the Application dated 30.06.2023 (Annexure P-15) submitted by the petition which is arbitrary, illegal and against the principle of natural justice hence warrants kind indulgence of this Hon'ble Court.**

**ii. Further a prayer for staying the further proceedings of order dated 14.03.2024 (Annexure P-21) passed by Election Tehsildar - cum-Sub Divisional Officer, Pehowa, District Kurukshetra during the pendency of present petition before this Hon'ble Court."**

The said case was listed for preliminary hearing on 22.03.2024 and after hearing the arguments the Hon'ble High Court dismissed the same.

16. Whereas, Smt. Nisha Kano Vangha has also filed Civil Suit No. 120 /2024 in the Court of Sh. Amit Sheoran Ld. Civil Judge (Junior Division) Pehowa,

district Kurukshetra inter-alia with the following prayers:-

**“(A) Declaration to the effect that the complaint dated 03.07.2022 moved by Sube Singh and others, show cause notice dated 17.04.2023 (Annexure P-1), letter dated 17.04.2023 (Annexure P-2) and all the subsequent communications, letters and orders including letter dated 12.03.2024 (Annexure P-3) and order dated 14.03.2024 (Annexure P-4) and show cause notice dated 14.03.2024 (Annexure P-7) are illegal, null and void and not binding on the rights of the plaintiff.**

**(B) With consequential relief of permanent injunction restraining the defendant No. 1 from initiating further proceedings on the basis of show cause notice dated 14.03.2024 (Annexure P-7) &**

**(C) with consequential relief of permanent injunction restraining the defendant No. 3 from deleting the name of the plaintiff from the electoral roll on the basis of order dated 14.03.2024 (Annexure P-4) and if the name of the plaintiff has already been deleted from the electoral roll, the same may kindly be ordered to be re-entered in the electoral roll, by passing a decree for mandatory injunction.”**

This civil suit was fixed for hearing on 04.04.2024 before the Court of Sh. Amit Sheoran Ld. Civil Judge (Junior Division) Pehowa, district Kurukshetra. The Electoral Registration Officer, 14, Pehowa-Vidhan Sabha Election Area-cum-Sub Divisional Officer (Civil), Pehowa district Kurukshetra (defendant No. 3) has filed application under order 7 Rule 11 CPC for rejection of the plaint. Arguments in the case were heard on the same date, i.e. 04.04.2024 and the Ld. Civil Judge have reserved his order on the said application for 09.04.2024.

17. Whereas, Smt. Nisha Kano Vangha raised her contention in her both replies to the both show cause notice inter-alia as follows:-

- (i) Whereas, Smt. Nisha Kano Vangha had submitted her reply to the first show cause notice issued on dated 17.04.2023 in the State Election Commission on dated 06.07.2023, inter-alia stating the following facts

relevant paras of reply are reproduced:-

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**Para 2 (i) I am not citizen of Kenya as on 28.07.2014, as I had already renunciate my citizenship of Kenya by submitted affidavit to Republic of Kenya. (Copy annexed herewith)**

**(ii) I am citizen of India in terms of section 4 of Citizenship Act, 1955 or otherwise which is being reproduced as under for your ready reference: 4. Citizenship by Descent.- 2 [(1) A person born outside India shall be a citizen of India by descent,- (3) For the purposes of proviso to sub-section (1), 1[any person] born outside undivided India who was, or was deemed to be, a citizen of India at the commencement of the Constitution shall be deemed to be a Citizen of India by descent only. The grand- father of applicant namely Varanga Lakhman Munja was born on 10.11.1905 in Kuchndi Prbander, India and he was also issued passport by United Kingdom of Great Britain and Northern Ireland which prima-facia show that the case of I am squarely covered with provisions of Citizenship Act, 1955. (Copy annexed herewith)**

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**(vi) the overseas card which is being alleged to be held for the purpose of overseas citizen of India certificate of registration issued by Assistant Consular Officer Assistant High Commissioner of India Mombasa from 12.04.2012 does not exist. I am entitled to hold the constitutional post.**

**3. That alleged passport No. A1566161 pertains to Kenyan nationality does not exist at all.**

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**8. On 24.04.2023 District Election Officer, Kurukshetra issued one letter to Sub Divisional Officer, Pehowa has issued one letter dated 24.04.2023 referring therein the letter issued by the State Election Commission, Haryana to delete my name from a electoral rolls. On the basis of above, Sub Divisional Officer, Pehowa has issued show cause notice to the applicant. It has been continuously alleged by concerned authorities above that as per section 5 (1) (g) of Citizenship Act, 1955.**

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**(ii) Whereas, Smt. Nisha Kano Vangha has submitted her reply to the second show cause notice issued on dated 14.03.2024 in the State Election**



Commission on 02.04.2024 inter-alia stating the following facts with regard to the case. Relevant paras of reply are reproduced:-

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**Para (4) That the Assistant State Election Commissioner, Haryana further wrote a letter dated 12.03.2024 to the Deputy Commissioner, Kurukshetra, Haryana with a finding that the answering respondent has not acquired the Indian Citizenship till date and therefore she was not eligible to be registered as a voter, either of the Legislative Assembly Constituency or Municipal Committee Ismailabad, District Kurukshetra. Copy of the said letter is annexed herewith as Annexure P-3. Through the said letter the Deputy Commissioner, Kurukshetra was directed to take necessary action as per the provisions contained in Section 16(1)(a) of the Representation of People Act, 1950. The said letter also contained finding that the answering respondent was not eligible to contest the election for the post of President, Municipal Committee, Ismailabad. Subsequent to the said letter, the Electoral Registration Officer cancelled the vote of the answering respondent without affording any opportunity of being heard to the answering respondent vide his order dated 14.03.2024 is annexed herewith as Annexure R-4. The Electoral Registration Officer made no enquiry at his level which is an essential requirement of Section 22 of the Representation of People Act, 1950. It is most humbly submitted that actions of the State Election Commission and other Authorities and more particularly the letter dated 12.03.2024 and the order dated 14.03.2024 and the communications in between 12.03.2024 and 14.03.2024 are totally illegal and everything has been done in a hurried manner as the country was expecting the imposition of Model Code of Conduct due to the general elections of 2024.**

**It is further relevant to mention here that the State Election Authorities, Haryana, Kurukshetra, Haryana wrote one letter to Kenya High Commission, New Delhi to verify about the affidavit of the answering respondent. The Kenya High Commission vide its letter dated 13.02.2024 replied to the Deputy Commissioner, Kurukshetra and asked him to send the copy of bio-data page of the Kenya Passport of the answering respondent. Deputy Commissioner, Kurukshetra wrote a letter dated 05.03.2024 to the answering respondent asking her to submit the self attested copy of the bio-data page of the Kenyan Passport within one week. Copy of the letter dated 05.03.2024 alongwith reply of the Kenya High School**

are annexed as Annexure R-5. But surprisingly the State Election Commission on 12.03.2024 wrote the letter to the Deputy Commissioner, Kurukshetra with the finding that answering respondent has not acquired the Indian Citizenship and to take necessary action against the answering respondent. This series of events itself shows that the State Election Authorities acted in a hurried and haste manner.

(5) That it is relevant to mention here that the State Election Commission or the other authorities have no jurisdiction/authority to adjudicate upon the status of the Citizenship of the answering respondent. It is necessary to refer to Section 13 of the Citizenship Act, 1955, which is reproduced as follows:-

“13. Certificate of Citizenship in case of doubt.

The Central Government may, in such cases as it thinks fit, certify that a person, with respect to whose citizenship of India a doubt exists, is a citizen of India; and a certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that person was such a citizen on the date thereof, but without prejudice to any evidence that he was such a citizen at an earlier date.”

Therefore, it is amply clear that it is only the Central Government which has the jurisdiction to decide any issue relating to Citizenship of an individual.

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(7) In this para Smt. Nisha Kano Vangha relied on the judgment of the Hon'ble Division Bench of Punjab and Haryana, High Court Chandigarh in Sukan Chand Saini V/S Senior Sub Judge, Narnaul, 1996 (3) RCR(C) 625 which is relied upon two judgments of Hon'ble Supreme Court of India namely Charan Lal Sahu V/s Nan Kishore, AIR 1973 Supreme Court 2464, Aeltemesh Rein V. Chandulal Chandrakar, AIR 1981 Supreme Court 1199.

(8) That coming to the factual matrix of the case the necessary facts are as follows:-

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(ii) The answering respondent was granted certificate of registration being overseas citizens of India by Assistant Consular Officer, Assistant High Commission of India Mombasa on 25.07.2012. Copy of the same is annexed herewith as Annexure R-9.

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(v) The answering respondent submitted one duly sworn affidavit dated 28.07.2014 before the Republic of Kenya in the matter of Oaths and statutory declarations act Cap 15 laws of Kenya and renounced her Kenyan Citizenship. Copy of the same is annexed herewith as Annexure R-12.

(vi) The answering respondent applied for voter card submitting her all relevant documents and she was issued a voter card by the Election Commission of India through the Electoral Registration Officer on 13.01.2015. Copy of the same is annexed herewith as Annexure R-13.

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10. That as per Section 5 (i) (g) of the Citizenship Act, 1955 a person can apply for registration as an Indian Citizen, if he has been registered as an Overseas Citizen of India card holder for five years and who is ordinarily resident of India for 12 months before making an application for registration. In view of the same the answering respondent applied for registration as Citizen of India through her application dated 30.06.2023. Copy of the said application is annexed herewith as Annexure R-17.

(11) That the application of the answering respondent for her registration as citizen of India is pending with the Home Ministry of India. It is most humbly submitted that the State Election Authorities have no authority to decide about the status of the citizenship of India. It is further submitted that registration of individual as a citizen of India is only a recognition of the fact that he is an Indian citizen. The perusal of Section 5 of the Citizenship Act would show that the answering respondent also fits in various other criteria of citizenship as provided in the said section. In the factual and legal scenario explained above, it is evident that the answering respondent satisfied the requirements of Citizenship as required under the relevant statute for the purpose of contesting the elections.

18. Smt. Nisha Kano Vangha was also afforded an opportunity of personal hearing she reiterated the same arguments as advanced by her Counsel, Shri Sahil Mangla, Advocate. She prayed that since she was married to an Indian Citizen, Shri Puneet Garg and had also borne three Children from this wedlock and she was

a resident of Ismailabad, district Kurukshetra since July, 2014, she was a citizen of India. Where she was specifically asked about proof of her Indian Citizenship, she submitted that she has formally applied for it on 30.06.2023 which was still pending for decision.

19. Whereas, after hearing the averments made by Sh. Sahil Mangla advocate, counsel of Mrs. Nisha Kano Vangha and perusing the facts and records pertaining to this case and replies submitted by Smt. Nisha Kano Vangha to both the show cause notices, I have come to the conclusion that:-

- (i) As per report received from the Deputy Commissioner, Kurukshetra vide memo No. 3246/LFA dated 15.03.2023 Smt. Nisha Kano Vangha was born on 07.10.1986 at Mombasa, and she is a Kenyan citizen with Passport No. A1566161 and Overseas Indian Citizen Card was issued to her bearing No. A1141796 on dated 25.07.2012 by the Indian Mission at Kenya. This report is based on the report of the Ministry of Home Affairs (Foreigners Division), New Delhi F. No. 26011/MISC/63/2023-OCI dated 09.03.2023.
- (ii) Smt. Nisha Kano Vangha has denied in her first reply on dated 06.07.2023 in response to the first show cause notice dated 17.04.2023 that She is not a citizen of Kenya as on 28-07-2014 because she had renounced her citizenship of Kenya by submitting an affidavit to the Republic of Kenya (para 2 (ii) of her reply). Whereas, while submitting her reply to the second show cause dated nil received in the office on 02.04.2024 she

has admitted having certificate of Overseas Citizen of India in para 8 (ii).

(iii) Smt. Nisha Kano Vangha has not disclosed in her first reply dated 06.07.2023 that she had applied for registration as Citizen of India on 30.06.2023 under Section 5 (i) (g) of the Citizenship Act, 1955 to the Government of India and claimed in para 2 (ii) of her first reply that she is a citizen of India in terms of section 4 of Citizenship Act, 1955 or otherwise. Whereas in her reply to the second show cause notice she has admitted in para 10 that she had applied for registration for citizenship of India on 30.06.2023 under section 5 (i) (g) of Citizenship Act, 1955 and also enclosed a copy of said application with her reply as Annexure- 17. Hence, she tried to mislead the State Election Commission by withholding vital information from the Commission while filing her reply dated 06.07.2023 to the first show cause notice.

(iv) Smt. Nisha Kano Vangha has specifically mentioned in para 2 (i) of her reply dated 06.07.2023 to the first show cause notice that she was not a citizen of Kenya as on 28.07.2014 as she had already renounced her citizenship of Kenya by submitting an affidavit to the Republic of Kenya and had also annexed a copy of the said affidavit dated 28.07.2014. She had also denied having passport No. A1566161 of Kenya in her para 3 of her first reply. Whereas, as per application submitted on 30.06.2023 by her for registration as citizen of India under

Section 5 (i) (g) of Citizenship Act, 1955 enclosed with the reply to the second show cause notice dated 14.03.2024 as Annexure- 17, she has clearly stated in para 1 of said application as under:-

"1. I, Nisha Kano Vangha resident of Roshanpur RD Opp Kaushal Nurshing Home, Ismailabad, Kurukshetra, Haryana- 136129, India of full age and capacity and was born at Mombasa, Kenya on 7<sup>th</sup> October 1986 and an Citizen of Kenya.

2. My father's full name is Kano Vangha Lakhman and he was born at Mombasa, Kenya on 29<sup>th</sup> April, 1952 and is a citizen of Kenya.

3. My Mother's full name is Minaxi Kano Vangha and she was born at Zamzonar. Tanzania on 11<sup>th</sup>September, 1959 and is a citizen of Kenya.

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5. I was registered as an overseas citizen of India (OCI) under section 7 A vide certificate of registration No. A1141906 dated 25.07.2012.

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8. Passport particulars:

(a) Country: KENYA

(b) Number: AK0137059

(v) It is clear from the above stated application that Smt. Nisha Kano Vangha is a citizen of Kenya and she is registered as Overseas Citizen of India under Section 7 A of Citizen of India with effect from 25.07.2012. Hence Smt. Nisha Kano Vangha has made a false statement in her para 2 (i) of her reply dated 06.07.2023 to the first show cause notice that she is not a citizen of Kenya and has renunciated her citizen of Kenya by submitting an affidavit on 28.07.2014. She further made a false statement in para 3 of her reply that she did not have a Kenyan passport whereas she clearly mentioned in Annexure-17 the particular of her passport in para 8

of her above mentioned application and has also enclosed a copy of valid Kenyan passport with her above stated application.

20. Whereas from the contention of Sh. Sahil Mangla, Advocate of Smt. Nisha Kano Vangha raised during personal hearing as mentioned above in para 15, it is very much clear from the provision of Article 243ZA read with Section 13 I of the Haryana Municipal Act, 1973 that the State Election Commission has independent jurisdiction power to deal with such matters and the provisions of chapter XIV of the Haryana Municipal Act, 1973 are only applicable to the Election Tribunal established by the State under Section 265 of Haryana Municipal Act, 1973. The Commission being a constitutional authority may deal with any matter relating to the preparation of electoral roll and conduct of election to the Municipalities suo-motto or on the basis or any complaint filed by any individual or any information received from any other sources, after holding such enquiry as it may deem fit and after giving an opportunity of being heard as provided under Section 13 I of the Haryana Municipal Act, 1973. Hence the contention raised by the Advocate of Smt. Nisha Kano Vangha is without any substance and the same is hereby rejected.

The second contention raised by the Advocate of Smt. Nisha Kano Vangha that his application may be decided first before deciding the matter of show cause notice is also without any merit as the said application has been filed only to delay and prolong the matter which has been pending before the State Election Commission since 07.07.2022 when the complaint was first received on dated 03.07.2022 and the contentions raised by her in her application are also inter connected with the show cause notices issued to her in this matter. Hence, it is not appropriate that the application be decided first and the matter with respect to the show cause notice may be decided later on.

21. Whereas, Smt. Nisha Kano Vangha alleged in her reply to the second show cause notice that the Electoral Registration Officer/Sub Divisional Officer, Pehowa has cancelled her vote without affording any opportunity of being heard. Whereas, she has mentioned in para 8 of her first reply dated 06.07.2023 to the first show cause notice dated 24.04.2023 that the Sub Divisional Officer, Pehowa has issued show cause notice to her.

22. The moot issue in this matter is whether Smt. Nisha Kano Vangha was having any disqualification as mentioned in Section 13 A of the Haryana Municipal Act, 1973 or Election Rules, 1978 because of which she is liable to be removed from the post of President, Municipal Committee, Ismailabad, Kurukshetra. Section 13 A of the Haryana Municipal Act, 1973 prescribes as follows:

**“[13-A.[Disqualification for president and membership].- (A) person shall be disqualified for being chosen as and for [being the president or a member] of a municipality-**

**(a) If he is so disqualified by or under any law for the time being in force for the purposes of election to the legislature of the State of Haryana:**

**Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age if he had attained the age of twenty-one years;**

Hence, the disqualification for the President of a Municipal Committee in the State is same as provided under any law for the purposes of election to the legislature of State of Haryana.

The provisions of Article 173 of the Constitution of India provide qualification for membership of State Legislature as under:-

**“173.Qualification for membership of the State Legislature.- A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he-**



- (a) is a citizen of India, and makes and subscribes before some person authorized in that behalf by the Election Commission on oath or affirmation according to the form set out for the purpose in the Third Schedule:]
- (b) is, in the case of a seat in the Legislature Assembly, not less than twenty-five years of age and in the case of seat in the Legislature Council, not less than thirty years of age; and
- (c) Possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.”

The provisions of Article 173 clearly prescribe that only a citizen of India is qualified for membership of State Legislature and from the implications of section 13 A of the Haryana Municipal Act, 1973, a person become disqualified for the post of President of a Municipal Committee if he/she is not a citizen of India.

23. Whereas from the facts and circumstances, legal provisions and averments as discussed above it is crystal clear that Smt. Nisha Kano Vangha was not a citizen of India at the time of filing her nomination for the post of President of Municipal Committee, Ismailabad, district Kurukshetra in June 2022. She has still not acquired Indian Citizenship and continues to be citizen of Kenya even till date and also an Overseas Citizen of India cardholder with effect from 25.07.2012. Now further question arises whether a foreign citizen having Overseas Citizen of India cardholder is eligible for becoming the President of a Municipal Committee? The provisions of Section 7 B(f) of The Citizenship Act, 1955 prescribed conferment of rights on Overseas Citizen of India Cardholder. The said provision is reproduced as under:

**“7B. Conferment of rights on Overseas Citizen of India Cardholder.-(1) Notwithstanding anything contained in any other law for the time being in force, an Overseas Citizen of India Cardholder shall be entitled to such rights, other than the rights specified under sub-section (2), as the Central Government may, by notification in the Official Gazette, specify in this behalf.**

**(2) An Overseas Citizen of India Cardholder shall not be entitled to the rights conferred on a citizen of India-**

(a) to (e) xxxxxxxxxxxxxxxx

(f) under section 16 of the Representation of the People Act, 1950 (43 of 1950) in regard to registration as a voter;

(g) xxxxxxxxxxxxxxxxx

(h) under sections 5, 5A and section 6 of the Representation of the People Act, 1951 (43 of 1951) with regard to the eligibility for being a member of the Legislative Assembly or the Legislative Council, as the case may be, of a State;

24. From the foregoing facts I am fully convinced that Smt. Nisha Kano Vangha was not a citizen of India at the time of her election to the post of President, Municipal Committee, Ismailabad, district Kurukshetra and was citizen of Kenya having Overseas Citizen of India Card. Accordingly, keeping in view the facts and circumstances and legal provisions as discussed above, she was not qualified to contest the election of President of Municipal Committee, Ismailabad and has thus incurred disqualification under 13 A (1) (a) of the Haryana Municipal Act, 1973.

25. In view of the above, I, Dhanpat Singh, State Election Commissioner, Haryana, in exercise of the powers vested in me under Article 243K and 243ZA of the Constitution of India and Section 13 A and 13 I of the Haryana Municipal Act, 1973, declare that Smt. Nisha Kano Vangha was disqualified at the time of her election for the post of President and therefore, she is hereby removed from the post of President, Municipal Committee, Ismailabad, district Kurukshetra and I also declare the said post vacant with immediate effect.

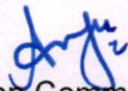
26. This order be notified in the official gazette of the State Government and a copy of this order may be served upon Smt. Nisha Kano Vanga through registered post. A copy of this order may also be also provided to all concerned.

Dated : 12<sup>th</sup> April, 2024  
Place : Panchkula

Dhanpat Singh  
State Election Commissioner, Haryana

A copy of above order is forwarded to the following for information and taking necessary action:-

1. Chief Secretary to Government, Haryana, Chandigarh.
2. Additional Secretary to the Government, Haryana, Urban Local Bodies Department, Haryana, Chandigarh.
3. Director, General, Urban Local Bodies Department, Haryana, Panchkula.
4. Deputy Commissioner, Kurukshetra with the direction to deliver the copy of above said order to Smt. Nisha Kano Vangha W/o Sh. Puneet Garg and sent a receipt thereof to the State Election Commission, Haryana immediately.
5. Secretary, Municipal Committee, Ismailabad, District Kurukshetra.
6. Controller, Printing and Stationery Department, Haryana, with the request to publish the above order in the official gazette of the State Government at the earliest.
7. Smt. Nisha Kano Vangha, W/o Sh. Puneet Garg, R/o H.No. 2200, Opposite Kaushal Hospital, Ismailabad, District –Kurukshetra.
8. Sh. Sube Singh and others resident of Municipal Committee, Ismailabad, District Kurukshetra.

  
Assistant State Election Commissioner,  
for State Election Commissioner, Haryana,  
Panchkula.