

CR No. 2286 and 3590 of 2015

ARCHANA ARORA
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IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 2286 of 2015
Date of decision : August 25, 2015

Gurpinder Singh

..... Petitioner

Versus

Baljit Kaur and others

..... Respondents

CR No. 3590 of 2015

Suba Singh

..... Petitioner

Versus

Daljit Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:-

Mr. Vishal Goel, Advocate for
Mr. J. S. Thind, Advocate
for the petitioner in CR No. 2286 of 2015.

Mr. Vivek Salathia, Advocate
for the petitioner in CR No. 3590 of 2015.

Mr. H. S. Batth, Advocate
for respondent No.1 in CR No. 2286 of 2015.

Mr. Sarabjit Singh, Advocate
for respondent No.3 in CR No. 2286 of 2015.

Mr. Balsher Singh, Advocate for respondent No.1
in CR No. 3590 of 2015.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

This order of mine shall dispose of two revision
petitions bearing CR No. 2286 and 3590 of 2015 whereby the

application filed by the petitioner (herein) and respondent before the Election Tribunal for dismissal of the election petition on the premise that provisions of Section 76(2) of the Punjab State Election Commission Act, 1994 (hereinafter referred to as 'the Act') has not been complied with has been dismissed.

Learned counsel for the petitioner submits that the compliance of provisions of Section 76(2) of the aforementioned Act is mandatory in nature. The election petition is to be accompanied by requisite number of copies and to be signed and attested by the petitioner. In the absence of the copies supplied to the respondent not signed and attested in the manner statutorily prescribed under the Act, the election petition is not sustainable and is liable to be dismissed.

Mr. H. S. Batth, learned counsel appearing on behalf of respondent No.1 in CR No. 2286 of 2015 submits that the impugned order declining the stay application was passed on 22.10.2013 and the revision has been filed after lapse of 1 year and 5 months. In the meantime, election petition proceeded and reached the stage of respondent's evidence.

Mr. Vivek Salathia, learned counsel appearing on behalf of the petitioner in CR No.3590 submits that the co-ordinate Bench of this Court in CR No. 1129 of 2015 decided on 24.3.2015 (Annexure P-5) has given a finding that provisions of Section 76(2) of the Act are mandatory in nature and further issued directions to the courts below to advert to the copies of the petition as and when election petition is filed and assist the parties as well as counsel who

have filed the election petition as to whether the statutory requirement of law has been complied with or not.

He further submits that in the aforementioned case of the Co-ordinate Bench, an application for treating such issue as preliminary was declined. Further this Court upheld the said objection and held that the election petition cannot be proceeded further.

Be that as it may, the fact remains that the said objection can be taken by the petitioners (herein) in the written statement and the election tribunal shall frame the issues. The trial court after noticing the objections taken in the written statement shall frame the issue and treat the issue of non-compliance of the provisions of Section 76(2) as preliminary and decide the same in accordance with law in CR No. 3590 of 2015, viz-a-viz the other Civil Revision No. 2286 of 2015 the election tribunal shall decide the petition on merits as the election petition is stated to have reached the stage of evidence.

The impugned orders dated 22.10.2013 in CR No. 2286 of 2015 is accepted and 5.5.2015 in CR No. 3590 of 2015 are accordingly modified and the revision petitions in the above said terms stand disposed of.

(AMIT RAWAL)
JUDGE

August 25, 2015
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