

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6107 of 2015 (O/M)
Date of decision : 17.9.2015

Sukhwinder Singh

..... Revisionist

Versus

The Presiding Officer, Election Tribunal-cum-Sub Divisional
Magistrate, Sangur, and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Jatinder Singla, Advocate, for the revisionist.

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

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KULDIP SINGH, J. (ORAL)

Learned counsel for the revisionist is aggrieved by the order dated 31.8.2015, passed by the Presiding Officer, Election Tribunal-cum-Sub Divisional Magistrate, Sangrur, vide which it was decided that the application of the present revisionist (Annexure-P-3) filed under Section 80 of the Punjab State Election Commission Act, 1994, for dismissing the election petition being not maintainable, will be decided after recording the entire evidence.

The plea of the learned counsel for the revisionist is that the election petition was required to be presented in person, but it

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has been presented by the counsel. Therefore, the matter regarding the maintainability should have been decided as preliminary issue and that the Presiding Officer has erred in deciding to determine the said issue after recording the entire evidence.

I am of the view that there is no illegality in the impugned order. What happens sometime during the Court proceedings is that the party is present, but only the presence of the counsel is recorded. Therefore, it will be a question of fact to be proved during the proceedings by leading the evidence as to whether the party was also present alongwith the counsel and only the presence of the counsel was marked by the concerned officer or its staff. Therefore, if the Presiding Officer of the Election Tribunal has decided to record the findings on this point after the evidence of the parties is recorded, there is nothing illegal in the same.

Learned counsel for the revisionist has referred to the various authorities of this Court in Nachhattar Singh Versus Presiding Officer, Election Tribunal, SDM Dhuri, 2013 (2) RCR (Civil) 230, Major Singh Versus Presiding Officer, Election Tribunal (ADC) Sangrur and others, 2010 (5) RCR (Civil) 934, Gurlal Singh Versus Presiding Officer, Election Tribunal, Block Lehra, District Sangrur and others, 2010 (5) RCR (Civil) 474, Manjit Kaur Versus Bhupinder Kaur etc., 2013 (4) RCR (Civil) 344, Suresh Kumar Singla Versus Election Tribunal, Fatehgarh Sahib and others, 2012 (3) RCR (Civil)

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178 and Nasib Kaur and others Versus Deputy Commissioner-cum-
Election Tribunal, Hoshiarpur and others, 2011 (2) RCR (Civil) 136.

In none of the above authorities produced by the learned counsel for the revisionist, it was held that the issue of maintainability must be decided as preliminary issue.

The present revision is accordingly dismissed.

(KULDIP SINGH)
JUDGE

17.9.2015
sjks