

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Writ Petition No.12564 of 2010

Date of decision: 15.01.2015

Mander Singh

... Petitioner

versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Amit Jhanji, Advocate,
for the petitioner.

Mr. Ranbir Singh Pathania, DAG, Punjab.

Mr.V.K. Shukla, Advocate,
for respondent No.5.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The petitioner is aggrieved that the 5th respondent who was ordered to be removed from service for alleged tampering of the record was subsequently ordered to be reinstated at the intervention of the Revenue Minister. This, according to him, has given rise to a suit instituted by the 5th respondent against the petitioner and others for damages in a civil court. The petitioner's contention is that the order of reinstatement made is not valid and that it should be quashed.

2. I find that the petitioner has no locus standi to urge for such a contention. A certiorari can lie only against a person who is directly aggrieved by a reinstatement if he is himself the person, who has passed the order or if he was competing with the 5th respondent for the post. The 5th respondent has instituted a suit for damages. It will be open for the petitioner to contend that there was no actionable wrong which he had committed to which he would be answerable. The only occasion when an appointment to a public office could be challenged by any person without being fettered by rule of standing is an appointment to a statutory post which post is created under the statute by an express designation. The principle at work in such a situation is that an usurper in public office cannot continue and a court's intervention could be made to eject him out of such employment. It cannot be used for any other situation and the writ petition challenging reinstatement order cannot be maintained at the instance of the petitioner. I may also observe that what is stated by the 5th respondent that he has also retired from service after reinstatement. The issue of whether the reinstatement was correct or not need not be decided at this stage and the intervention will not be exigent on the said ground as well. The writ petition is dismissed.

(K.KANNAN)
JUDGE

15.01.2015
sanjeev