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

**CWP No. 10654 of 2015**
**DECIDED ON: AUGUST 25, 2015**

**YOGESH KUMAR SHARMA AND OTHERS**

**.....PETITIONERS**

**VERSUS**

**STATE OF HARYANA AND OTHERS**

**.....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE SURYA KANT.**
**HON'BLE MR. JUSTICE JASPAL SINGH.**

***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?***

Present: Mr. Yash Dev Kaushik, Advocate
for the petitioners.

Ms. Kirti Singh, DAG, Haryana.

Ms. Amrita Nagpal, Advocate
for the intervenors.

**SURYA KANT, J (ORAL)**

The question that arises for consideration is in this case whether the petitioners should be included in the voter list of village Budedha or village Chandu, Tehsil and District Gurgaon? When this writ petition came up for preliminary hearing on July 27, 2015, the following order was passed:

> *"Learned counsel for the petitioners contends that voters' list has been prepared contradictory to the directions issued by the Deputy Commissioner, Gurgaon, that the persons whose houses fall within the abadi of village Budedha shall be voters of that village, though the residents of abadi of village Chandu shall be voters of that village but where the residents have houses in both the villages, they shall be voters as per their choice.*

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*Learned counsel for the petitioners contends that the petitioners have houses in both the villages i.e. village Budedha and village Chandu and have opted to be voters of village Chandu but they have been shown as voters of village Budedha."*

2. The respondents have filed their written statements according to which the petitioners have been found residing in village Budedha, therefore, their names have been included in the voter list of that village.

3. On the other hand, the case of petitioners is that; (i) they are voters of village Chandu from the time of their forefathers; (ii) at no point of time their names were included in the voter list of any other village; (iii) the Ration Cards, BPL and Voter Cards have been issued to them at the address of village Chandu only; (iv) the houses constructed by them in village Budedha are the extended one only due to expansion of their family; (v) they are still *bona-fide* residents of village Chandu where they are residing since generations; (vi) even, if the petitioners have houses in both the villages i.e. village Budedha and village Chandu, they are entitled to exercise their option for inclusion of their names in the voter list of village Chandu.

4. We find from the order passed by Sub Divisional Officer (C), Gurgaon-cum-Appellate Authority dated March 13, 2015 that the names of petitioners have been shifted to the voter list of village Budedha only on the report of a Patwari, forwarded by Naib Tehsildar, according to which they are presently residing in village Budedha.

6. The afore-said report, in our considered view, cannot be a conclusive proof that the petitioners have completely disconnected themselves from village Chandu or that their roots from generations are not traceable in village Chandu. The Authority ought to have given opportunity to the petitioners to produce the

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material proof like Ration Card, Domicile certificate, Voter Cards, Birth Certificates and BPL card etc to establish that they have been actually residing in village Chandu and are entitle to be included in the voter list of that village.

7. For the reasons afore-stated, the order dated 13.03.2015 (P-6) is set aside and the Sub Divisional Officer (C)-cum-Appellate Authority, Gurgaon (North) is directed to decide the appeal afresh after giving an opportunity to the petitioners to produce the relevant and material proof in support of their claim. Let the appropriate order be passed within a period of two weeks from the date of certified copy of this order.

8. Copy of this order be given dasti to the learned State counsel for its compliance.

**(SURYA KANT)**
**JUDGE**

**(JASPAL SINGH)**
**JUDGE**

**AUGUST 25, 2015**
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