

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.22284 of 2014
Date of Decision: December 14, 2015

Ravi Chhabra

....Petitioner

versus

Returning Officer-cum-General Managar and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Ashwani Chopra, Senior Advocate with
Mr.Rohit Khanna and Mr.Rajat Jerriwala, Advocates,
for the petitioner.

Ms.Kirti Singh, Deputy Advocate General, Haryana.

Mr.Namit Kumar, Advocate, for respondent No.2.

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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?*

Surya Kant, J. (Oral)

The petitioner is a political activist. His grievance in the instant writ petition is against the alleged restrictions imposed by State authorities on displaying the flag of a political party to which he belongs, on the private property comprising his residential house.

[2] The Election Commission of India has issued comprehensive Instructions dated 07.10.2008 on "Prevention of Defacement of Property" which were reiterated vide later Instructions dated 08.01.2012 and followed by further clarificatory Instructions dated 11.03.2014. As per these Instructions, the display of banner/flag are subject to any

restrictions under any local law or Court orders in force.

[3] In the context of 'local law' as mentioned in the Instructions, it is not in dispute that the State of Haryana has enacted the "Haryana Prevention of Defacement of Property Act, 1989". Section 3-A of the Act defines defacement of any property in public view and has made it an offence punishable with imprisonment which may extend to six months or fine which may extend to Rs.10,000/- or with both. Proviso thereto says that "sign boards fixed by any person, individual or institution on their own property or property occupied by them at their cost, shall be exempted from the provisions of sub-section(1)".

[4] Section 5 of the Act has an over-riding effect on Section 3-A and it enables the State Government to take such steps as may be necessary for erasing any writing, freeing any defacement or removing any mark from any property. Some other powers are also vested with which we are not concerned.

[5] It may be mentioned at this stage that the State Authorities have come up with a categorical stand in their written statement, especially the Returning Officer, Hisar, that no verbal or written instructions were issued directing the removal of political party's flag from the residential property of the petitioner.

[6] It does appear that the authorities are alive of the peripheral limits of the powers vested in them under the State Act. They have apprised the Election Commission of India also with the same stand that the petitioner was never directed to remove the political-party flag from his residence.

[7] In view of the above stand, we have no reason to doubt that the authorities shall hitherto also act fairly and strictly within the frame-work of the State Act.

[8] The writ petition stands disposed of accordingly.

[9] Dasti.

[SURYA KANT]
JUDGE

December 14, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE