

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

**CM No.7318-CII of 2014 in/ and
FAO No.2029 of 2014 (O&M)
Date of decision: 19.03.2015**

Karamjit Kaur

..... Appellant

versus

The Presiding Officer Election Tribunal & others

..... Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.H.P.S.Ghuman, Advocate for the appellant
Ms.Jasleen Kaur Sidhu,AAG, Punjab
Mr.Parvinder Singh, Advocate for respondent No.2

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

CM No.7318-CII of 2014

This application has been filed for condonation of 4 days delay in filing the appeal. The application is accompanied by an affidavit. For the reasons mentioned therein, it is allowed and 4 days delay in filing the appeal stands condoned.

FAO No.2029 of 2014

This is an appeal against order dated 2.1.2014, passed by the Additional Deputy Commissioner (G) -cum-Election Tribunal, SAS Nagar, Mohali, vide which, nomination papers of the appellant for election as a Panch of the Gram Panchayat village Kumbra were rejected.

It is to be noticed that the Gram Panchayat village Kumbra does not exist anymore as it has now been included in the newly constituted Municipal Corporation of Mohali. Therefore, the present appeal has become more of academic interest than having any practical benefit to either party.

The election to the Gram Panchayat Kumbran were to be held on 3.7.2013. The appellant filed nomination papers for the Panch from Ward No.3, Cluster No.13, village Kumbra, Tehsil and District SAS Nagar. Respondent No.2 Rajinder Kaur also filed nomination papers. It is stated that respondent No.2 also filed a complaint before the Returning Officer stating that the appellant and her family are in illegal possession of passage of Gram Panchayat bearing Khasra No.450. On this ground, the Returning Officer, after hearing both the parties, rejected the nomination papers of the appellant and declared respondent No.2 elected unopposed. The election petition filed before the Election Tribunal was dismissed vide impugned order dated 2.1.2014.

I have heard learned counsel for the parties and have carefully gone through the record.

The dis-qualifications of a member of the Gram Panchayat, are enumerated in Section 11 of the Punjab State Election Commission Act, 1994. In the said Section, possession of the Gram Panchayat's land is not a disqualification. The matter was dealt with by this Court in the case of Jawala Singh v. The Election Tribunal-cum-Additional Deputy Commissioner, Barnala (Punjab) and others, 2010 (3) RCR (Civil) 368, wherein, after taking into

consideration of Section 11 and the case law on the point, it was ruled out that except the dis-qualifications mentioned in Section 11 of the said Act, 1994 the member cannot be disqualified on any other ground. Accordingly, order of the Tribunal was set aside.

Since the possession of the Gram Panchayat's land is not a ground for disqualification of a member, therefore, the impugned order passed by the Tribunal is wholly illegal and is set aside and it is declared that the nomination papers of the appellant were wrongly rejected. However, as observed above, since the Gram Panchayat has merged in the Municipal Corporation, Mohali, therefore, no other orders are required to be passed.

The petition is accordingly allowed to that extent.

19.03.2015
gk

(Kuldip Singh)
Judge