

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

105

CM No.16490-CII of 2016 and
COCP No.700 of 2016

Date of Decision: September 09, 2016

Rajesh Kumar

...Petitioner

Versus

Sameer Pal Srow

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Suneel Ranga, Advocate
for the applicant-petitioner.

AUGUSTINE GEORGE MASI, J. (ORAL)

CM No.16490-CII of 2016

Prayer in this application is for permission to place on record
Annexure P-11.

Application is allowed.

Annexure P-11 is taken on record subject to just exceptions.

COCP No.700 of 2016

Petitioner has approached this Court alleging violation of the
order dated 29.01.2016 passed by this Court in CWP No.1885 of 2016
(Annexure P-2).

Petitioner had approached this Court by stating that the
petitioner as well as one Deepak had got 391 votes each and, therefore, as
per the process required to be followed, both the parties should have been
present at the spot for holding the draw of lots. The petitioner alleged that he
was not present nor was he taken into confidence and the draw of lots was
resorted to, in which Deepak was successful. It was alleged by the petitioner

that Rule 71 of the Haryana Panchayati Raj Election Rules, 1994, has been violated.

This Court, under that circumstances, had directed the Deputy Commissioner-cum-District Election Officer, Panipat, to consider the grievance of the petitioner as early as possible but not later than one month. The Court had further stated that these observations would not mean that mandatory requirement of filing of election petition has been dispensed with. Petitioner asserts that the copy of the order was duly served upon the Deputy Commissioner, Panipat, on 05.02.2016. The respondent-Deputy Commissioner-cum-District Election Officer, Panipat, instead of redressal of the grievance, on the said date, proceeded to administer oath to the Sarpanches and Panches of the Gram Panchayat on 15.02.2016 without complying with the directions issued by this Court in the order dated 29.01.2016, thus, violating the order passed by this Court. He further asserts that the Deputy Commissioner had formally passed the order dated 29.02.2016 agreeing with the assertions of the petitioner and the Committee which was constituted had given its report in favour of the petitioner which was on 08.02.2016. Counsel, thus, contends that the Deputy Commissioner-cum-District Election Officer, Panipat, has violated the order passed by this Court.

I have considered the submissions made by learned counsel for the petitioner and with his assistance, have gone through the pleadings and the order passed by the Division Bench of this Court.

No doubt, the Division Bench of this Court had keeping in

view the grievance, as has been highlighted by the petitioner in the writ petition, given a direction and the operative part of the order dated 29.01.2016 reads as follows:-

“3.) As these are all seriously disputed question of facts, we dispose of this writ petition without going into merits of the case with a direction to the Deputy Commissioner-cum-District Election Officer to consider the above-stated grievance of the petitioner as early as possible but not later than one month. However, this shall not be construed as if the mandatory requirement of filing an election petition has been dispensed with”.

According to the said order, the Division Bench was of the opinion that Deputy Commissioner-cum-District Election Officer, Panipat, shall consider the grievance of the petitioner as early as possible but not later than one month from the date of passing of the order. The order as passed by this Court is dated 29.01.2016. As per the admitted fact, this order was supplied to the respondent on 05.02.2016, therefore, the period to comply with the order was upto 04.03.2016. The time within which the order has been passed i.e. on 29.01.2016, thus, cannot be said to be beyond the period which has been fixed by this Court.

The other grievance of the petitioner is that the Committee which was constituted to look into the grievance of the petitioner has submitted its finding on 08.02.2016 but still the respondent proceeded to administer oath upon the Sarpanch of the village namely Deepak on 15.02.2016 and, therefore, has violated the order passed by this Court but the said contention cannot be accepted as there is no mandate to that effect in the Division Bench order, what has been observed therein is only limited

to the extent of consideration of redressal of the grievance of the petitioner.

It is an admitted fact that the petitioner has filed a writ petition challenging the order passed by the Deputy Commissioner-cum-District Election Officer which is pending consideration of this Court, therefore, this Court refrains from making any further comments or observations.

In view of the above, the present petition is disposed of.

September 09, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No