

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.3575 of 2016

Date of Decision.24.05.2016

Onkar son of Sh. Leela Ram

.....Petitioner

Vs.

Sanjay Kumar and others

.....Respondents

Present: Mr. Aayush Arora, Advocate
for the petitioner.

Mr. Vijay Kumar Jindal, Senior Advocate with
Mr. Akshay Kumar Jindal, Advocate
for the caveators.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. Thes revision petition is against the order passed dismissing an application for rejection of the petition. The election petition is founded on a plea of corrupt practice and improper acceptance of nomination, grounds which are available under Section 176 (4) (a) and Section 4(aa)(iii) of the Haryana Panchayati Raj Act, 1994. The objection by the present petitioner as a respondent in the court below, who was impleaded, was that the election could be challenged only on two grounds as found by Full Bench of this Court in Smt. Anuj Vs. Additional Civil Judge (Senior Division), Pehowa 1998-2 Vol.CXIX PLR 393. The said decision has been rendered before an amendment which was brought by introduction of Clause 4 (aa) by Act 17 of 2001 dated 18.12.2001. The Full Bench decision was restricting the grounds of election petition to be only the two grounds other than what are mentioned under clause 2(a) (iii). It will not have any bearing

to the present petition. There is also an argument that the person who has filed the election petition had already approached the Deputy Commissioner and he had not taken all these objections before that forum. There could be no estoppel against a statutory right to approach a competent Tribunal for filing an election petition. The fact that he had approached some other forum can be no ground for rejection of the petition. The counsel says that even before the Returning Officer the petitioner had not taken any objection. So long as statutory right of making objection is set through grounds, the issue of whether he had set up all these objections before the Returning Officer or not and how it will impact, will be matters for consideration at the time of trial and cannot be a ground for rejection of the petition.

2. There is no ground for interfering with the order already passed. The revision petition is dismissed.

(K. KANNAN)
JUDGE

May 24, 2016
Pankaj*