

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

Civil Revision No.3635 of 2015
Date of Decision: May 16th, 2016

Smt.Sumitra

...Petitioner

Versus

Smt.Sunita & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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.S.K.Verma, Advocate,
for the petitioner.

Mr.R.S.Shehrawat, Advocate,
for respondent No.1.

Mr.D.K.Mittal, DAG, Haryana,
for respondent Nos.3 & 4.

AMIT RAWAL, J. (Oral)

The petitioner is aggrieved of the dismissal of the election petition being barred by one day, i.e., filed beyond thirty days.

Mr.S.K.Verma, learned counsel appearing on behalf of the petitioner submits that the election petition challenging the election of Municipal Councillor of Municipal Committee, Village Uklana Mandi, Tehsil Barwala, District Hisar, which was declared on 31.12.2014. As per Rule 75 of the Haryana Municipal Election Rules, 1978 (for short "1978 Rules"), the limitation to file the election petition is 30 days. However, as per the proviso, the Deputy Commissioner has the power to extend the limitation in case sufficient ground for extension is made out and that too

only for 14 days. Since there was a delay of one day, the power could have been exercised for condoning the delay as per provisions of Rule 75 of 1978 Rules. The judgment relied upon by the trial Court would not apply to the election of the Municipal Council, but to the Legislature. Even the Lower Appellate Court has assigned no reasons in entertaining such request, for, relied upon the notification, which does not indicate striking out the proviso.

Mr.R.S.Shehrawat, learned counsel for respondent No.1 and Mr.D.K.Mittal, learned DAG, Haryana submit that there is a delay of 3 days as the election petition was to be filed within 30 days from the date of the declaration of the result, which expired on 30.1.2014, whereas the election petition was filed on 2.2.2015. No application, much less prayer has been sought in the election petition for extension of time of 14 days as per the provisions of Rule 75, aforementioned and rightly so, the election petition was dismissed.

I have heard the learned counsel for the parties and appraised the paper book and of the view that unless and until a specific prayer is made in the election petition or through an independent application, the Civil Judge could not have entertained the election petition, which, admittedly was filed on 2.2.2015 with a delay of two days.

It is the conceded position on record that neither any affidavit nor any separate application seeking extension of time from the Deputy Commissioner by invoking the provisions, aforementioned, has been moved. In my view, a valuable right had accrued to the elected Councillor. No doubt, the proviso of the Act and the Rules do not exclude the applicability of Limitation Act, but the fact remains that application seeking

condonation of delay had not been filed, therefore, there was no occasion for the Court below to condone the delay, noticed above.

In my view, the findings rendered by both the Courts below are perfectly in consonance with the provisions of Rule 75 of 1978 Rules. No ground for interference is made out.

Revision petition stands dismissed.

May 16th, 2016
ramesh

(AMIT RAWAL)
JUDGE