

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.5333 of 2015
Date of Decision: May 03, 2016

Baljinder Kaur

...Petitioner

Versus

Baljit Kaur and 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.Dilraj Singh Brar, Advocate,
for the petitioner.

Mr.Ashish Gupta, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

The petitioner, respondent in the election petition initiated at the instance of the respondent No.1, is aggrieved of the impugned order, whereby the application at the instance of respondent No.1 seeking to examine more witnesses by way of additional evidence, has been allowed.

Mr.Dilraj Singh Brar, learned counsel appearing on behalf of the petitioner submits that respondent No.1 sought the indulgence of the Election Tribunal to examine the following witnesses by way of additional evidence:-

- 1) Sukhpreet Kaur;
- 2) Kuldeep Kaur;
- 3) Balour Singh;
- 4) Hari Singh;

- 5) Satnam Singh;
- 6) Lakhwinder Singh;
- 7) Sutantar Kaur; and
- 8) Gursewak Singh

No explanation has come forth as to how the aforementioned persons are necessary and essential for adjudication of the lis. The application is wanting ingredients of additional evidence and, therefore, the same is liable to be dismissed. This aspect has not been noticed by the Court below while allowing the application.

Mr.Ashish Gupta, learned counsel appearing on behalf of respondent No.1 submits that since the allegation of malafide has been made against the Returning and Presiding Officer, the aforementioned witnesses would depose in terms of averment taken in the election petition. No doubt, the application was moved at the stage when the petition was ripe for arguments, but application for additional evidence cannot be thrown out on this ground, rather can be allowed even at that stage also.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the contents of the application (Ex.P2) do not reveal the essential ingredients of additional evidence. No explanation has come forth with regard to the expression “exercise of due diligence”. Even otherwise, the application is wanting explanation qua the necessity and essentiality of the aforementioned witnesses. All these aspects have completely been ignored by the Election Tribunal, particularly when matter reached the stage of the arguments. It is a matter of record that the elections were held on 3.7.2013 and the election petition was filed thereafter.

Accordingly, the impugned order is not sustainable. The same is hereby set-aside. The application (Ex.P2) is rejected.

Revision petition stands allowed.

May 03, 2016
ramesh

(AMIT RAWAL)
JUDGE