

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

CWP No.103 of 2016

Date of Decision :11.1.2016

Arun Kumar

....Petitioner

Versus

The State of Punjab and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

....

Present: Mr. Pardeep Goyal, Advocate
for the petitioner.

Mr. S.P.Jain, Sr.Advocate with
Mr. Dheeraj Jain, Advocate and
Mr. Vijay Kumar Chaudhary, Advocate
for the caveator/respondent No.4.

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MAHESH GROVER.J.

The respondent No.4 is on caveat and has been heard.

This is a petition impugning the order dated 23.12.2015 by which a no confidence motion allegedly passed initially against respondent No.4 was annulled after an inquiry contemplated under the provisions of Section 22 of the Punjab Municipal Act was concluded by the competent authority i.e. Secretary, Local Government , Punjab.

According to the petitioner, Resolution No.122 expressing no confidence against respondent No.4 was passed by raising hands by 10 members of the Council which consists of 14

members (13 elected members and one member of the Legislative Assembly).

As required under Section 22 of the Punjab Municipal Act, before notifying the removal of President a show cause notice has to be issued to the office bearer so removed.

Accordingly notice was issued to respondent No.4 within 21 days to which he submitted a detailed reply by stating that no confidence motion was not carried through as it required validation by 10 members but one of the members Smt. Santosh Rani did not raise her hand in support of the motion. The proceedings incidentally had been videographed by the Nagar Panchayat and the Compact Disc (CD) was got tested from the FSL and found to be un- tampered with.

Learned counsel for the petitioner contends that there is another recording which would indicate that Smt. Santosh Rani had indeed raised her hand. This has been placed on record as Annexure P-6.

However, nothing has been disclosed as to how this CD was prepared. In any eventuality, this question would also lose its significance in view of the CD relied upon by respondent No.4 having been found to be genuine with no challenge to it by the petitioner. Besides, Smt. Santosh Rani was given an opportunity to present her case before the Secretary Local

Government, Punjab who noticed her affidavit and her statement to deny support of the motion against respondent No.4. The petitioner has not impleaded Smt. Santosh Rani as a party respondent herein and once her stand before the Secretary, Local Government, Punjab has been established to be left unimpeached then this coupled with record of videography conducted on the day whose genuineness has not been questioned, there would be no reason to interfere with the impugned order. The no confidence motion having not been passed by 2/3rd of the majority in view of Smt. Santosh Rani not favouring the motion which fact stands established as above, I would refrain from interfering in the present writ petition.

Dismissed.

11.1.2016
dss

(MAHESH GROVER)
JUDGE