

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 10300 of 2016

Date of Decision: 1.8.2016

Surinder Mittal and another

....Petitioners.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.**

PRESENT: Mr. Vivek Goyal, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this writ petition under Articles 226/227 of the Constitution of India, the petitioners has prayed for issuance of a writ in the nature of certiorari for quashing the final notification dated 25.8.2015 (Annexure P-1). Further, a writ of mandamus has been sought restraining the official respondents from holding the Municipal Committee Elections on 25.5.2016 on the basis of defective, illegal Wardbandi and fake voter list.

2. The official respondents vide final notification dated 9.3.2015 (Annexure P-1) under Rule 10 of the Haryana Municipal Delimitation of Ward Rules, 1977 issued Wardbandi for Thanesar, District Kurukshetra. The voters have not been distributed equally in each ward and, therefore, the members cannot be elected from the majority of voters. In the election of 2010 for the Municipal Committee, Thanesar, the members were elected from each ward as majority of voters had been distributed equally and the

list was prepared in very fair manner. The voter list had been prepared by adjusting one side houses of one street in one ward and the houses of the other side of the same street in another ward. The matter came to the notice of the petitioners only when they saw the voter list after 5.5.2016, i.e. after first day of nomination as before the voter list was not provided to them. Accordingly, the petitioners moved a representation dated 5.5.2016 (Annexure P-2) to respondents No.2 and 4 against illegal Wardbandi of Thanesar, District Kurukshetra, but no response has been received till date. Earlier, one Kusum Lata filed CWP No. 9328 of 2016 challenging the action of the respondents whereby her vote had been removed so as not to allow her to contest election against respondent No.6 and for allowing her to file nomination papers. The said writ petition was disposed of by this Court vide order dated 12.5.2016 (Annexure P-3) directing to the respondents to invite the fresh objection against deletion of her name from electoral list by giving one day opportunity to the effective voters and thereafter reschedule of the election programme including the date of filing of nomination papers so as to enable the affected persons like the petitioners to file nominations, if so desired. Against the order, Annexure P-3, respondent No.2 filed Special Leave Petition and the Supreme Court stayed the order, Annexure P-3. Thereafter, respondent No.2 issued fresh notification dated 17.5.2016 (Annexure P-4) for holding the election on 25.5.2016. The official respondents wanted to get the election conducted on 25.5.2016 as per the wardbandi, Annexure P-1 which is illegal, arbitrary, unlawful and against the provisions of Rule 7 of the Haryana Municipal Delimitation of Ward Rules, 1977. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that for the relief

claimed in the writ petition, the petitioners have sent a representation dated 5.5.2016 (Annexure P-2) to respondents No.2 and 4, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioners, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.4 to take a decision on the representation dated 5.5.2016 (Annexure P-2), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners and respondent No.6 within a period of one month from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

August 1, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No