

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

CWP No. 16532 of 2016

DATE OF DECISION : 29.08.2016

Balwinder Singh and others

.... PETITIONERS

Versus

State of Punjab and others

..... RESPONDENTS

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

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Gurmohan Singh Bedi, Advocate,
for the petitioners.

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RAMENDRA JAIN, J.

1. Balwinder Singh, President of Municipal Council, Mansa, and eight elected Municipal Councilors, have filed this petition under Articles 226/227 of the Constitution of India seeking quashing of the requisition dated 20.04.2016 (Annexure P-1) submitted by respondents No.4 to 7, other elected Municipal Councilors, requesting to call a vote of confidence against President of the Municipal Council. The petitioners have further prayed for quashing of all subsequent proceedings under Section 22 of the Punjab Municipal Act, 1911 (hereinafter referred to as 'the Act'). The show cause notice dated 28.06.2016 (Annexure P-5) issued to petitioner No.1 has also been challenged. A direction has also been sought to be issued to respondents No.1 and 2 to reschedule the meeting for voting on the motion of no confidence by means of secret ballot.

2. Briefly stated, Municipal Council, Mansa, consists of 27

elected members and 1 ex-officio member, who is Member of the Legislative Assembly of the State representing the constituency comprising of municipal area. Petitioner No.1 was elected as President of the Municipal Council on 18.04.2015. About one year thereafter, i.e. on 20.04.2016, respondents No.4 to 7 and other Councilors, including some of the petitioners, submitted a requisition (Annexure P-1) alleging that they had lost confidence in the working of petitioner No.1 as President of the Municipal Council, as he was unable to properly manage the working of the Council. Therefore, it was requested that a vote of confidence against petitioner No.1 being President of the Municipal Council be called. Accordingly, the Executive Officer of the Municipal Council, vide letter dated 20.04.2016 (Annexure P-2), requested petitioner No.1 to call a meeting under Section 25 of the Act. Thereupon, after duly intimating all the Councilors as well as the MLA of the area, the meeting was held on 18.05.2016 under the supervision of Tehsildar, Mansa, being Observer appointed by the Deputy Commissioner, Mansa. In the said meeting, 26 Councilors were present. The motion of no confidence was put to vote by show of hands. Out of 26 Councilors, who were present in the meeting, 22 supported the vote of no confidence against the President by raising their hands, whereas 4 Councilors voted in favour of the President. Thus, vide minutes of meeting dated 18.05.2016 (Annexure P-3), the requisition of no confidence was passed by more than 2/3rd majority of the Councilors. Thereafter, vide letter dated 19.05.2016 (Annexure P-4), the Executive Officer of the Municipal Council sent copy of the said minutes of meeting to the Director, Department of Local Government, Punjab; Deputy Commissioner, Mansa; and the Deputy Director, Local Government,

Bathinda. In pursuance of the passing of said requisition of no confidence, petitioner No.1 was served with show cause notice dated 28.06.2016 (Annexure P-5) along with statement of charges. Accordingly, vide letter dated 15.07.2016 (Annexure P-6), petitioner No.1 submitted detailed reply to the said show cause notice. Subsequently, on coming to know about certain new facts, he submitted supplementary reply dated 08.08.2016 (Annexure P-8).

3. Learned counsel for the petitioners argued that votes of certain Councilors, including some of the petitioners, were obtained under threat and coercion. The requisition dated 20.04.2016 requesting to call a vote of confidence against President of the Municipal Council was submitted without specifying any reason or circumstance, as enshrined in Section 22 of the Act, due to which the Councilors lost faith in the working of petitioner No.1 as President of the Municipal Council. Since on request made by petitioner No.1 to the Deputy Commissioner, Mansa, to allocate the development funds to the departments other than the Municipal Council, Mansa, funds to the tune of approximately ₹ 8.5 crores were allocated to the Mandi Board and the Department of B & R, Punjab, for carrying out various development works in the Municipal limits of Mansa, therefore, the requisition dated 20.04.2016 and the consequent meeting dated 18.05.2016 was carried out with a malafide intention. In order to cause serious prejudice to the right of petitioner No.1 to establish the confidence of 2/3rd majority members of the Municipal Council, some of the Councilors (including petitioners No.7 to 9) were taken away by respondents No.4 to 7 from 20.04.2016 to 18.05.2016 from the area of Mansa for unknown destination, so that petitioner No.1 may not be able to canvass his genuine cause and

concern for development of the Municipal area. In this regard, copy of bill (Annexure P-7) issued by The Singh's XI Hotel & Restaurant, Mohali, showing that in the said Hotel, 7 rooms were booked from 20.04.2016 to 18.05.2016 in the name of respondent No.7 had been appended. The voting should have been done by means of a secret ballot.

4. After considering the submissions made by learned counsel for the petitioners, we are of the opinion that the grounds taken by the petitioners to challenge the requisition dated 20.04.2016 and the consequent meeting dated 18.05.2016 have already been raised by petitioner No.1 in reply dated 15.07.2016 and supplementary reply dated 08.08.2016, in response to the show cause notice dated 28.06.2016, which is pending adjudication before the appropriate authorities. All these grounds are based upon disputed question of facts, which can not be considered by this court in the writ jurisdiction. Hence, we are not inclined to entertain the instant petition.

5. Petition is, accordingly, dismissed.

(RAMENDRA JAIN)
JUDGE

August 29, 2016
ndj

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No