

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1803 of 2016

Date of Decision:-29.01.2016.

Pinky

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

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. Atul Lakhanpal, Senior Advocate with
Mr. Kirpal Singh Ahluwalia, Advocate
for the petitioner.

SURYA KANT, J. (ORAL)

1.) Notice of motion to respondent Nos.1 and 2 only. On our asking, Ms. Kirti Singh, learned Deputy Advocate General, Haryana, accepts notice on their behalf. Let three copies of the writ petition be supplied to the State counsel during the course of the day failing which this order shall be automatically recalled and the writ petition shall stand dismissed for non-prosecution.

2.) Since no order prejudicial to the interest of other respondents expressing any final opinion on merits of the case is being passed, we do not deem it necessary to call upon other respondents at this stage.

3.) The election of Sarpanch of Village Kidoli, Tehsil Kharkhoda, District Sonapat was held on 10.1.2016. There was direct contest between the petitioner and respondent No.4. The petitioner claims that Returning Officer of Booth No.82, namely, respondent No.5 is a relative of respondent No.4 and he allegedly manipulated the Electronic Voting Machine (EVM) to the benefit of respondent No.4 in such a manner that though the petitioner was polled the highest votes i.e. 597, yet respondent No.4 was declared elected by a margin of 10 votes.

4.) As may be seen, the above mentioned facts are essentially disputed question of facts which can be effectively adjudicated by way of an election petition, namely, a remedy available to the petitioner under Section 176 of the Haryana Panchayati Raj Election Act, 1994. We, thus, relegate the petitioner to the above-stated remedy. The Election Tribunal is directed that if the petitioner files an election petition, the same be expeditiously decided but not later than six months.

5.) As regard to the petitioner's allegations, namely, that respondent No.5 is a close relative of the elected candidate and that he failed to perform his duties impartially due to conflict of interest, we find from the record that the petitioner has already made a complaint to the Deputy Commissioner-cum-Election Officer, Sonapat. We direct the said Authority to ascertain the correct facts and take appropriate decision on the said complaint in accordance

with principles of natural justice, within a period of three months.

6.) A copy of this order be given to Ms. Kirti Singh, learned Deputy Advocate General, Haryana for information and necessary compliance.

**(SURYA KANT)
JUDGE**

**(P.B. BAJANTHRI)
JUDGE**

January 29, 2016.

sandeep sethi