

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.24041 of 2016

Date of Decision: 21.11.2016

Ramesh Kumar Sharda

. . . Petitioner

Versus

The State of Punjab and others

. . . Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Nakul Sharma, Advocate
for the petitioner.

Rameshwar Singh Malik, J. (Oral)

Present writ petition is directed against the order dated 15.11.2016 (Annexure P-14), whereby Additional Chief Secretary, Punjab, Department of Local Government, upheld the resolution dated 12.08.2016, vide which no confidence motion was carried against the petitioner. Petitioner also impugns the notification dated 15.11.2016 (Annexure P-15), whereby no confidence motion having been passed against the petitioner, he was removed from Presidentship of Nagar Council, Raikot, under Section 22 of the Punjab Municipal Act, 1911 ('the Act' – for short).

Heard learned counsel for the petitioner.

Technicalities apart, it is no more in dispute that petitioner has lost the majority. It is a matter of record that there were total 15 members of the Municipal Council. 11 members passed the no confidence motion against the petitioner, vide resolution No.1 dated 12.08.2016

(Annexure P-6). This material fact is not in dispute that the petitioner has lost the majority. Petitioner approached the Secretary to Government of Punjab, Department of Local Government, by way of a legal notice dated 29.08.2016 (Annexure P-7). When it was not being decided, petitioner approached this Court by way of Civil Writ Petition No.21121 of 2016, which was disposed of vide order dated 21.10.2016, directing the respondent No.1 to take appropriate decision on the legal notice of the petitioner, at an early date. Thus, in compliance of the above-said order dated 21.10.2016 (Annexure P-10), impugned order came to be passed by respondent No.1.

No doubt, the impugned order dated 09.11.2016/15.11.2016 (Annexure P-14), passed by respondent No.1 is not a detailed order, yet it is also a matter of record that sufficient reasons have been pointed out by respondent No.1, while passing the impugned order. In fact, the only basic issue which was to be dealt with was, whether the petitioner was enjoying majority or not. Petitioner has failed to bring on record any relevant material, which may even remotely suggest that petitioner was still enjoying the majority. Once no confidence motion has been successfully carried out against the petitioner, technicalities alone will not weigh with this Court. Notification dated 15.11.2016 (Annexure P-15) was only a natural consequence of order (Annexure P-14). Petitioner was bound to be removed from Presidentship of the Municipal Council, Raikot, once he has lost the majority. Only that is what has been done by way of impugned orders.

Having said that, this Court feels no hesitation to conclude that the respondent authorities were well within their jurisdiction to pass

the impugned orders. No illegality or perversity has been found which might have been committed by any of the authorities, while passing the impugned orders and the same deserve to be upheld, for this reason also.

Had the petitioner been in a position to show even today that he was, as a matter of fact, enjoying the majority, matter would have been entirely different. However, it has gone undisputed before this Court that majority members were no more with the petitioner. The petitioner is not enjoying the confidence of majority members any further. In such a situation, natural consequences were bound to follow. Further comments are not being made for the reason that the matter revolves only around the no confidence motion, which had been successfully carried out against the petitioner.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the instant petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above-said observations made, the present writ petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

21.11.2016
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Whether Speaking/reasoned : Yes
Whether Reportable : No