

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.6782 of 2016

Date of Decision: April 11, 2016

Rajesh Kumar

....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE A.B.CHAUDHARI.

Present: Mr.Suneel Ranga, Advocate, for the petitioner.

Ms.Kirti Singh, Deputy Advocate General, Haryana.

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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?

Surya Kant, J. (Oral)

Notice of motion to respondent Nos.1 to 6 only at
this stage.

On our asking, Ms.Kirti Singh, learned Deputy
Advocate General, Haryana, accepts notice on their behalf.

Let six copies of the writ petition be supplied to
learned State counsel during the course of day failing which
this order shall be automatically recalled and the writ petition
shall be deemed to have been dismissed for non-prosecution.

In view of the nature of order which we propose to
pass, it is not necessary to seek any counter-reply from
respondent Nos.1 to 6 or to serve respondent Nos.7 to 9 at this
stage as no order on merits prejudicial to their interest is
being passed.

Respondent No.9 was declared elected as Sarpanch of Gram Panchayat, Village Pathri, P.O. Seenk, Tehsil Israna, District Panipat in a draw of lots as the contesting candidates appears to have secured equal votes. The petitioner was also one of the contesting candidate. The petitioner made a complaint against the manner and procedure adopted by the Returning Officer in conducting the draw of lots. As no action was taken on his complaint, he approached this Court through CWP No.1885 of 2016 which was disposed of vide order dated 29.01.2016 with a direction to the Deputy Commissioner-cum-District Election Officer to redress the petitioner's grievance.

Pursuant thereto, the Deputy Commissioner, Panipat made a fact-finding enquiry and has submitted his report dated 29.02.2016 (P-6) with the finding that the procedure adopted by the Returning Officer was erroneous and he ignored the 'Returning Officer's Instructions Handbook' while conducting the draw of lots.

Armed with the afore-said enquiry report, the petitioner seeks quashing of the notification dated 10.02.2016 (P-10) issued by the State Election Commission, Haryana, in which respondent No.9 has been notified as the elected Sarpanch.

We have heard learned counsel for the petitioner and gone through the record.

Since 9th respondent has a right to challenge the report submitted by the Deputy Commissioner and the said report cannot be accepted behind his back, we are of the considered view that the matter at this stage requires consideration by the State Election Commission, Haryana to whom the report has been submitted by the Deputy

Commissioner-cum-District Election Officer. The instant writ petition is thus disposed of with a direction to the State Election Commission to hear the parties including respondent No.9 with reference to the report submitted by the Deputy Commissioner and take an appropriate decision in relation to the procedure adopted by the Returning Officer while conducting the 'draw of lots' and/or the validity of election. The appropriate decision shall be taken within a period of three months from the date of receiving a certified copy of this order.

Ordered accordingly.

Dasti.

[SURYA KANT]
JUDGE

April 11 , 2016
mohinder

[A.B.CHAUDHARI]
JUDGE