

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

105

FAO No.8248 of 2015 (O&M)
Date of Decision: May 04, 2016

Jagat Ram

...Appellant

Versus

Pavittar Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Arun Takhi, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the order dated 06.10.2015 passed by the Election Tribunal, Hoshiarpur, whereby the election petition filed by Pavittar Singh-respondent No.1 challenging the election of appellant-Jagat Ram as Sarpanch of the Gram Panchayat, village Chitton, Block Hoshiarpur-2. Tehsil and District Hoshiarpur, has been allowed declaring the election of the appellant as illegal being violative of the provisions of the statute primarily on the ground that he had been convicted for an offence involving moral turpitude and, therefore, could not participate in the election prior to elapse of five years from the date of conviction.

2. It is the contention of learned counsel for the appellant that the appeal against the order of conviction is still pending before this Court and, therefore, it cannot be said that the said conviction had attained finality. He contends that the sentence of the appellant has been suspended and, therefore, the disqualification as prescribed in the statute, would not be applicable to the case of the appellant. He, therefore, submits that the impugned order dated 06.10.2015 passed by the Election Tribunal,

Hoshiarpur, cannot sustain.

3. I have considered the submissions made by learned counsel for the appellant but am unable to accept the same in the light of the specific bar under the statute according to which a person convicted of an offence involving moral turpitude cannot contest the election unless a period of five years has elapsed since the date of his conviction. Although the appeal of the appellant is pending before this Court but admittedly the conviction has not been suspended. It is only the sentence which has been suspended. The statute provides that a person convicted of an offence involving moral turpitude is rendered ineligible for contesting the election. That being the mandate of the statute, the order as passed by the Election Tribunal, Hoshiarpur, cannot be said to be illegal which would call for any interference by this Court.

4. In view of the above, finding no merit in the present appeal, the same stands dismissed.

5. In the light of the dismissal of the appeal, the application for stay i.e. CM No.26026-CII of 2015., stands disposed of as infructuous.

May 04, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE