

Gurbax Singh  
2016.12.21 13:55

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

**LPA No. 2323 of 2016  
Date of decision: 30.11.2016**

**Ramesh Kumar Sharda**

**.....Appellant**

**Vs.**

**The State of Punjab and others**

**.....Respondents**

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL  
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

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

**Ajay Kumar Mittal,J.**

1. This appeal has been filed by the appellant under Clause X of the Letters Patent against the order dated 21.11.2016 passed by learned Single Judge in CWP No.24041 of 2016 whereby the writ petition filed by him has been dismissed, upholding the order dated 15.11.2016 passed by respondent No.1 rejecting legal notice/representation dated 29.8.2016 and notification dated 15.11.2016 removing him from the post of President of Nagar Council, Raikot under Section 22 of the Punjab Municipal Act, 1911 (in short, "the Act").

2. A few facts relevant for the decision of the controversy involved as narrated in the appeal may be notice. The election of Municipal Council, Raikot was held. The appellant was elected as Municipal Councillor. In the meeting held for the election of the President, the

appellant was elected as President, Municipal Council, Raikot. Since then, the appellant has been discharging his duties as President, Municipal Council, Raikot. According to the appellant, the ruling party had been making efforts to remove him from the Presidentship of the Municipal Council. At the instance of Jagjeet Singh Talwandi, SGPC member from the area, a requisition dated 18.7.2016 was submitted by 11 municipal councillors requesting for convening the meeting for vote of No Confidence against the appellant. The said requisition was forwarded to the appellant by the Executive Officer for convening the meeting. According to the provisions of Section 22 of the Act, a President or Vice President could be removed from the office by passing a No Confidence Motion by 2/3<sup>rd</sup> members of the House. According to Section 25 of the Act, on receipt of such requisition, the President shall fix the meeting within a period of 14 days and the date of the meeting should be within 30 days from the date of the requisition. The appellant fixed the meeting for considering No Confidence Motion on 12.8.2016 in the office of Municipal Council, Raikot. Request for arrangement of police was also made but there was no confirmation from the office of DSP in this regard. Further, at the instance of Mr. Talwandi, certain candidates were abducted and accordingly, the appellant had to cancel the meeting. Intimation in this regard was given to DSP, Raikot by the Executive officer vide letter dated 12.8.2016. Thereafter, at the instance of the Mr. Talwandi, the police force was brought and 11 members passed the resolution dated 12.8.2016 at the back of the appellant. According to the provisions of Section 25 of the Act, the meeting for vote of No Confidence was to be held within a period of 30 days from the date of receipt of the requisition. Thereafter, the petitioner served a notice for demand of justice dated 29.8.2016 upon respondent No.1 calling upon him

to annul the proceedings of the meeting dated 12.8.2016 and also the resolution dated 12.8.2016. Respondent No.1 issued show cause notice dated 29.8.2016 to the appellant as to why he be not removed from the post of President on the basis of the resolution dated 12.8.2016. The appellant submitted his reply dated 19.9.2016. The appellant having left with no other alternative filed CWP No.21121 of 2016 before this court for a direction to respondent No.1 to pass a speaking order on the notice dated 29.8.2016. The said writ petition was disposed of vide order dated 21.10.2016 with a direction to respondent No.1 to look into the matter and decide the legal notice dated 29.8.2016 in accordance with law. The appellant moved another letter dated 23.10.2016 asking for relevant documents. The appellant received date of hearing from the office of respondent No.1 as 27.10.2016. On the said date, the appellant appeared and made a request for placing on record the order dated 21.10.2016 passed by this Court. Having received no response, the appellant submitted another legal notice on 1.11.2016. On 15.11.2016, respondent No.1 rejected the representation dated 29.9.2016 filed by the appellant and issued notification removing him from the post of Presidentship of Nagar Council, Raikot. Aggrieved thereby, the appellant filed CWP No.24041 of 2016. Vide order dated 21.11.2016, learned Single Judge dismissed the said writ petition. Hence the instant appeal by the appellant.

3. We have heard learned counsel for the appellant.

4. After examining the matter, it has been categorically recoded by the learned Single Judge that the appellant had lost the majority. Out of 15 members of the Municipal Council, 11 members passed the No Confidence Motion against the appellant vide resolution dated 12.8.2016. The majority members were not with the appellant. Notification dated 15.11.2016 was the

natural consequence of the order dated 09.11.2016. Once the appellant had lost the majority, he was bound to be removed from the Presidentship of the Municipal Council, Raikot. Thus, the writ petition was rightly dismissed by the learned Single Judge. The relevant findings recorded by the learned Single Judge read thus:-

“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 12.8.2016 (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 29.8.2016, 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 9.11.2016/15.11.2016 (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. Infact, 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 being 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.”

5. Learned counsel for the appellant has not been able to produce any material on record to show that the findings recorded by the learned Single Judge are illegal or erroneous. Consequently, finding no merit in the appeal, the same is hereby dismissed.

**(Ajay Kumar Mittal)**  
**Judge**

**November 30, 2016**  
**‘gs’**

**(Harinder Singh Sidhu)**  
**Judge**

Whether speaking/reasoned  
Whether referred to reporter or not

Yes/No  
**Yes**