

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 04.05.2017

1. CR No.3147 of 2017 (O&M)

Sher Pal Gujjar

... Petitioner

Vs.

Sanjay Kumar and others

... Respondents

2. CR No.3183 of 2017 (O&M)

Sher Pal Gujjar

... Petitioner

Vs.

Sanjay Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Parminder Singh, Advocate
for the petitioner.

Mr. V.K. Jindal, Sr. Advocate with
Ms. Janya Sirohi, Advocate
for the caveator-respondent(s).

RAMESHWAR SINGH MALIK, J. (ORAL)

These two identical revision petitions, at the hands of same petitioner-turned candidate, who is respondent No.1 in the election petition before the learned trial Court, are directed against the same impugned order dated 20.04.2017, whereby his two applications, one for additional evidence

and another for recalling DW8, were dismissed by the learned trial Court, are being decided vide this common order, with the consent of learned counsel for the petitioner, as both these revision petitions are arising out of same set of facts. However, for the facility of reference, facts are being culled out from CR No.3147 of 2017.

Heard learned counsel for the petitioner.

A bare perusal of the impugned order, whereby application of the petitioner for recalling DW8 was dismissed, would show that the learned trial Court has discussed each and every relevant aspect of the matter and that too in minute details, including the order dated 10.01.2017 passed by this Court in CR No.30 of 2017 (Sher Pal Gujjar Vs. Sanjay Kumar and others). Once the order dated 21.12.2016 passed by the learned trial Court, disallowing the re-examination of DW8, has been upheld by this Court vide abovesaid order dated 10.01.2017, no fault can be found with the impugned order passed by the learned trial Court and the same deserves to be upheld.

It is a matter of record that DW8-Bhupesh Kumar was the summoned witness of the petitioner. He was examined and cross-examined. Whatever appropriate questions were to be put to this witness, as a matter of fact, were put at the instance of the petitioner. In fact, it seems that since the petitioner is a returned candidate, he wants to delay the proceedings of the election petition to the maximum. This is the reason that he is moving repeated applications one after the other before the learned trial Court, including the frivolous ones. Every time, the learned trial Court will deal with the application and pass appropriate orders. Petitioner will approach this Court and in the process, he is gaining more and more time with a view to delay the proceedings

of the election petition. As noticed hereinabove, the impugned order has been found factually correct and legally justified, as it is duly supported by sound reasons. Having said that, this Court feels no hesitation to conclude that the learned trial Court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld, for this reason also.

So far as the prayer made by the petitioner for additional evidence is concerned, it was rightly observed by the learned trial Court that the petitioner was trying to play smart. It is so said because when the petitioner approached this Court against the abovesaid order dated 21.12.2016 passed by the learned trial Court, by way of CR No.7364 of 2016, said order was modified by this Court vide order dated 11.11.2016, only to the limited extent that petitioner shall be entitled to summon concerned Clerk of District Election Office, Bhiwani and Jhajjar with complete records of nominations with regard to five candidates each from the aforesaid districts. It is not in dispute that both the abovesaid official witnesses have already been summoned and examined by the petitioner. Now, he is trying to enlarge the scope of abovesaid order dated 11.11.2016 passed by this Court in CR No.7364 of 2016, which cannot be permitted. Under these undisputed facts and circumstances of the case, it can be safely concluded that the learned trial Court was fully justified, while passing the impugned order and no error of law has been committed by the learned trial Court, which may warrant interference at the hands of this Court.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. The

impugned order has been found duly supported by sound reasons and the same deserves to be upheld, for this reason as well.

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 both the revision petitions are wholly misconceived, bereft of merit and without any substance, thus, these must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, both the abovesaid revision petitions stand dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

04.05.2017
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No