

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

CR No.6608 of 2017(O&M)

Date of decision: 26.9.2017

Pooja Devi

.....Petitioner

VERSUS

Kuldeep and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 02.05.2016 (Annexure P-4) passed by the Civil Judge (Junior Division), Karnal whereby application filed by respondent No.1 under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (in short 'CPC') for amendment of election petition has been allowed.

The sole submission made by counsel for the petitioner is that an election petition is required to be filed within a period of 30 days from the date of declaration of result, application for amendment made beyond the prescribed period of 30 days is not maintainable and liable to be dismissed on this score alone. In support of his contentions, he has relied upon judgment of Hon'ble the Supreme Court of India **K.D. Deshmukh Vs. Amritlal Jayaswal, AIR 1992 SC 164.** Further reference has been made to judgment of this Court **Satbir Singh Vs. Executive Magistrate, Sangrur, 1998(1) RCR (Civil) 612.**

I have heard counsel for the petitioner, perused the paper-book particularly the various annexures appended with the petition and the judgments cited at bar.

Before advertng to the submissions made by counsel for the petitioner, it is pertinent to note as to what amendment the respondent sought to be made for filing application under Order 6 Rule 17 read with Section 151 CPC (Annexure P-2). Perusal of the application would make it evident that the respondent sought amendment to correct the date of election to be 17th January, 2016 in place of 24th January 2016. The second plea raised by the respondent is that he has made a wrong prayer for being declared to be elected on the post of Sarpanch in the village Shahpur, Tehsil and District Karnal when as a matter of fact he did not contest the election for the post of Sarpanch of the said village. A plain reading of the application leaves no manner of doubt that the respondent/election petitioner did not invoke jurisdiction of the Court by amendment of the petition in order to add a new ground for assailing election of the petitioner as Sarpanch of village Shahpur. In the cited authorities, the amendment was sought to be made in the election petition in order to add a new ground for challenge to the election and the application was filed after expiry⁸ of the prescribed period of limitation and in those circumstances, the Court did not allow application for amendment of the election petition. It is difficult to comprehend as to how observations made in the referred authorities can be applied to the facts of the case in hand wherein the respondent has not sought to add any new ground for challenging election of the petitioner.

Counsel for the petitioner, in response to a query, would inform that the elections were held on 17.01.2016 and the result was

declared on the very same day. The petition challenging election of the petitioner was filed on 16.02.2016, within a period of 30 days from the date of election and the result. There could be no reason for the respondent to give the correct date of election as he had filed the petition to challenge the election within the stipulated period of limitation. The matter would have been different had he filed the election petition beyond the period of limitation by showing a wrong date of election in order to gain any advantage of the question of limitation. Even if the respondent/election petitioner was aware of the facts sought to be added/pleaded by way of amendment, the same does not constitute a good ground to reject his application for amendment. The Court below has not committed any patent error in exercise of his discretion in favour of the respondent/election petitioner warranting intervention in exercise of supervisory jurisdiction by this Court.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

SEPTEMBER 26, 2017
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no