

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

CR No.6992 of 2016 (O&M)

Date of decision : 04.08.2017

Sunil

...Petitioner

Versus

Election Tribunal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. Amit Jhanji, Advocate for respondent No.2.

ANIL KSHETARPAL, J. (ORAL)

Sunil, an elected member of the Municipal Corporation, Panchkula has filed the present revision petition under Article 227 of the Constitution of India challenging the order dated 12.09.2016.

Ravinder Kumar Rawal had filed an election petition under Sections 15, 16, 17, 18, 19, 20, 21 & 22 of the Haryana Municipal Corporation Act and for setting aside the election of respondent No.1-Sunil-petitioner herein.

Parties led their evidence and concluded. Thereafter, the petitioner filed an application for permission to produce additional evidence as the petitioner wanted to produce on record a copy of the alleged enquiry report dated 19.02.2014.

The learned trial Court after appreciating all aspects of the

matter chose to dismiss the application while recording following reasons:-

“5. In the present case, this Court has to be determine as to whether there are convincing and reliable circumstances on the record which calls out for allowing the application in hand. After careful perusal of the facts and circumstances of the case and after bestowal of thoughts, this Court is of the considered opinion that there are no convincing circumstances on the case record which can give strength to the assertions of the applicant. The case record clearly reflects that the evidence of the petitioner was closed on 05.01.2016 and the case was adjourned to 27.01.2016 for evidence of the respondents. Thereafter, various effective opportunities were given to the respondents to conclude their evidence and accordingly, last opportunity was granted on 29.04.2016. Thereafter, another adjournment was also sought which was allowed by the court subject to final opportunity for 17.05.2016. Thereafter, a further adjournment was sought which was also allowed by the court subject to the final last opportunity on 30.05.2016. Thereafter, on the date fixed, the witness of the respondent was examined and further adjournment was again sought. It was specifically mentioned in the zimni order dated 04.07.2016 that several effective opportunities including many last and final last opportunities have already been granted to the respondents for concluding their entire evidence. Furthermore, the fact that the present case in hand pertains to the year 2013 and requires speedy disposal and taking into consideration that no other witness desired to be examined was present before the Court. Accordingly, the evidence of the respondents was closed by the order of the court. It was thereafter, when the case was fixed for rebuttal evidence, if any and arguments, that the present application for adducing additional

evidence was moved on behalf of the respondent No.1.

6. *Herein, this Court also takes its support from the observations in the case titled as Satnam Singh Vs. Devinder Kaur, 2007(2) CCC 81 (P&H) wherein it is held that the additional evidence cannot be allowed when both the parties have closed their evidence as it would reopen the whole case. It was further held that the exercise of inherent jurisdiction is to be based on principles of equity and justice. It was further held that if it is not disclosed in the application as to how the same is relevant and no explanation as to why evidence, which was earlier within the knowledge of the plaintiff was not produced when evidence was led in affirmative. In such circumstance, the additional evidence cannot be allowed.”*

This order has been challenged before me.

A reading of the application for additional evidence would show that the petitioner has not asserted that such enquiry report was not in his knowledge. The only plea taken in the application is that such vigilance enquiry report is necessary for the just decision of the case.

Learned counsel for the petitioner has placed on file the alleged enquiry report dated 19.02.2014. A reading of the report would show that no conclusion has been drawn. It has been concluded that the matter is pending as enquiry is being conducted by Sub Divisional Engineer (Electrical).

The learned trial Court after noticing the fact that more than sufficient opportunities were given to the petitioner, dismissed the application.

Further I have examined the alleged enquiry report. I do not find that such enquiry report which does not draw any conclusion would

help the Court in adjudication of the Election Petition.

Finding no merit in the present revision petition, the same is dismissed. Effort is only to delay the decision in the Election Petition on the part of the petitioner who is an elected representative.

Since, the election petition is pending for almost four years, therefore, the trial Court is requested to finally decide the matter within a period of one month from the date of receipt of certified copy of this order.

04.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No