

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

CR No.8197 of 2016

Date of decision: April 18, 2017

Sikandar Lal and others

....Petitioners

Versus

Vinod Kumar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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

Mr. Parveen K. Rohilla, Advocate
for respondent No.1.

Mr. P.K. Jangra, Addl. A.G., Haryana
for respondents No.2 to 5-State.

JASPAL SINGH, J.(ORAL)

By virtue of the instant petition preferred under Article 227 of Constitution of India, petitioners have sought setting aside of the order dated 8th November, 2016 (Annexure P-2) whereby defence of the petitioners (respondents No.5 to 7 in the election petition) has been struck off on account of non-filing of written statement.

At the time of issuance of notice of motion vide order dated December 05, 2016, following order was passed by the Coordinate Bench of this Court:-

“Learned counsel for the petitioners contends that in the election petition, challenge has been made to the order dated 27.08.2015 passed by the State of Haryana through Collector-cum-District Election Officer, Karnal vide which reservation was made on the basis of rotation. The notification of the government was assailed in the High Court. The writ petition was withdrawn with liberty to take all the pleas before the Election Tribunal. Though four opportunities were

granted to the petitioners to file written statement and there was some lapse on the part of the petitioners in not filing the written statement but learned counsel contends that the omission was in the context of nature of challenge made by the petitioners in the Election petition. Indulgence of the Court is being sought for granting one effective opportunity with adequate costs.

Notice of motion for 22.12.2016.

Dasti as well.”

Learned counsel for the petitioners Mr. Parminder Singh has submitted that the written statement is ready with him and in case one effective opportunity is granted to him that too with adequate cost, he would file the written statement within a short possible time. Otherwise also, it is well settled principle of law that the election petition should be decided on merits and right of a party should not be struck down simply on account of procedural technicalities.

Thus, without commenting anything upon the impugned order dated 8th November, 2016, the same is *set aside* subject to payment of Rs.5,000/- which shall be deposited with Legal Services Authority, Karnal and trial Court-cum-Election Tribunal is directed to afford one effective opportunity to the petitioners to file their written statement. However, since the matter has already been delayed, it would be desirable that the trial Court-cum-Election Tribunal to take up the matter on priority basis and try to dispose it of within a period of six months from the date of receipt of certified copy of this order.

April 18, 2017

m. sharma

(JASPAL SINGH)

JUDGE

**Whether Speaking/Reasoned
Whether Reportable**

**Yes/No
Yes/No**