

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

CR-8471-2017

Date of decision: 08.12.2017

Gurdev Singh

...Petitioner

Versus

Sarabjeet Singh and another

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Mandeep Singh Khillan, Advocate,
for the petitioner.

Ritu Bahri, J.

Challenge in this petition is to the order dated 10.11.2017 (Annexure P-3) passed by the Civil Judge (Junior Division), Karnal, whereby application filed by petitioner-defendant No.1 under Order 6 Rule 17 read with Section 151 CPC has been dismissed.

Pursuant to the elections held on 28.05.2017, present petitioner-Gurdev Singh was declared as elected Sarpanch of village Nissing (Gramin). Feeling aggrieved, respondent No.1-Sarabjeet Singh filed an election petition bearing No.163 of 2017 before the Court of Civil Judge (Junior Division), Karnal, alleging therein that 150 voters, who had already casted their votes in the elections of Municipal committee, Nissang, have casted their votes in this election as well. Inclusion of the names of those persons in the voter list was in connivance with the Returning Officer. It was further pleaded that names of those persons were not cancelled despite the objections being raised by respondent No.1.

Upon notice, present petitioner-defendant No.1 filed written statement by taking a stand that the aforesaid election petition was barred

under Section 170 of the Haryana Panchayati Raj Act, 1994, which bars the jurisdiction of Civil Courts to entertain or adjudicate upon any question, whether any person is or is not entitled to have his name included in the list of voters. It also bars the jurisdiction to question the legality of any action taken or decision given by or under the authority of State Election Commission in connection with the preparation, maintaining or revision of any such list. A plea was taken that under Sections 172 and 173 of the Act, action can be taken against any Government servant, who acts in breach of official duty in connection with the preparation of list of voters.

When the aforesaid petitioner was listed for further examination-in-chief of PW-4 and cross-examination of PW-1, at that stage, petitioner-defendant No.1 filed an application dated 03.11.2017 (Annexure P-1) for amendment of the written statement. To the said application respondent No.1-Sarabjeet Singh filed reply dated 06.11.2017 (Annexure P-2). Ultimately, the application for amendment of written statement was dismissed by the Court vide impugned order dated 10.11.2017 (Annexure P-3).

Learned counsel for the petitioner has argued that in the written statement, a specific plea has been taken by the petitioner that when the voter list was prepared, objections could be filed regarding inclusion or exclusion of any voter and these objections could be made in the office of prescribed authorities as per the provisions contained in Haryana Panchayati Raj Act, 1994. In case the objections, so made, are dismissed by the District Electoral Officer, appeal can be filed before the District Election Officer. As per Act and Rules, decision of the Appellate Authority shall be final. Preparation of voter list cannot be challenged before any other Civil Court.

The application for amendment of written statement has been dismissed on the ground that petitioner has taken a specific objection in the written statement with regard to bar of jurisdiction of Civil Court under Section 170 of the Haryana Panchayati Raj Act, 1994 and this would include the jurisdiction to question the legality of any action taken or decision given by or under the authority of State Election Commission in connection with the preparation, maintaining or revision of any voter list. Section 170 of the Haryana Panchayat Raj Act, 1994 is reproduced as under:-

“170. No Civil Court shall have jurisdiction—

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to have his name included in a list of voters; or

(b) to question the legality of any action taken or decision given by or under the authority of the State Election Commission in connection with the preparation, maintenance or revision of any such list.”

A perusal of the aforesaid provision shows that jurisdiction of Civil Court is barred, where a challenge has been made to the manner of preparation of voter list. Procedure provided under Rules to make objections and thereafter, file appeal are legal arguments, which can be taken by the petitioner before the trial Court and for this purpose, no amendment is required to be made in the written statement.

Resultantly, no ground is made out to interfere in the impugned order.

Dismissed.

08.12.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No