

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP No. 15006 of 2016 (O&M)

Date of decision : 20.01.2017

Jagmohan Singh Bhatti

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE S.S.SARON
HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. J.S.Bhatti, petitioner in person.

Mr. Satya Pal Jain, Additional Solicitor General of India
with Mr. Dheeraj Jain, Sr. counsel for respondents no.1 and 2.

Mr. Lokesh Sinhal, Addl.A.G.Haryana

Mr. Manoj Bajaj, Advocate
for respondents no.8 to 10.

Mr. Deepak Manchanda, Advocate
for respondent no.11.

S.S.SARON, J.

The petition has been filed by Sh. Jagmohan Singh Bhatti, Advocate who is appearing in person primarily raising the issue that there has been an infraction of the provisions of Article 164 (1A) of the Constitution of India inasmuch as the Haryana State has a Council of Ministers that exceeds 15% of the total number of Members of its Legislative Assembly.

Article 164 (1A) of the Constitution envisages that the total number

of Ministers, including the Chief Minister, in the Council of Ministers in a State is not to exceed 15% of the total number of Members of the Legislative Assembly. The total number of the Haryana Legislative Assembly is 90 and 15% of the same works out to 13.5. At present there are 14 Ministers in the Council of Ministers. According to the petitioner, while calculating 15% of the total Members of the Legislative Assembly, the fraction is to be interpreted in a manner that the limit of 15% that is fixed is not exceeded. Therefore, it is submitted that the Council of Ministers is liable to be reduced so as to keep it within the limit of 15% of the total Members of the Haryana Legislative Assembly.

In response, it is submitted on behalf of the respondent - State of Haryana that the fraction is to be taken into account and the fact that 15% of 90 that works out to 13.5 would mean that there can be a Council of Ministers comprising of 14. Therefore, according to learned counsel for the respondent - State of Haryana there is no infraction of Article 164 (1A) of the Constitution of India.

Mr. Manoj Bajaj, Advocate appearing for respondents No. 8 to 10; however, has referred to other major defects in the petition that has been filed particularly relating to the verification of the petition which it is submitted has been done on the basis of news item reports which are clearly of no consequence in a petition of this nature. Besides, defects have also been pointed out in the questions of law that have been framed.

Mr. J.S.Bhatti, Advocate petitioner in person submits that the defects are only technical in nature, which do not in any manner affect the basic substance of the case. However, in order to obviate the objections that have been raised by the learned counsel for the respondents no.8 to 10, he may be permitted to withdraw the petition and file fresh one on the same subject matter and cause of action.

Mr. Bajaj has no serious objection to the same.

The petition is accordingly dismissed as withdrawn with liberty to file a fresh petition on the same subject matter and cause of action.

(S.S.SARON)
JUDGE

(DARSHAN SINGH)
JUDGE

January 20, 2017
s.khan

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No