

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

**(113)**

**CWP-1698-2017**

**Decided on: February 01, 2017.**

**Avtar Henry @ Avtar Singh Sanghera**

**.... Petitioner**

**Versus**

**Union of India and others**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI**

Present: Ms. Tanu Bedi, Advocate, for the petitioner.

**M.M.S. BEDI, J (ORAL)**

The petitioner claims that he had been a British subject on the basis of an application filed by him under Section 6 (1) of British Nationality Act, 1948 and under Section 12 (2) of the Commonwealth Immigrants Act, 1962 in the year 1968 but he has been residing in India since 1969.

Vide order dated 30.11.2012, his citizenship as Indian, has been cancelled. A statutory revision petition under Section 15 of the Citizenship Act, 1955 has been filed by the petitioner and is pending before the General Secretary (Foreigners) Ministry of Home Affairs. Copy of the memorandum of representation filed in the year 2012 has been appended with the petition as Annexure P-5.

Learned counsel for the petitioner submits that the said revision petition is still pending.

During pendency of the said revision petition, the name of the petitioner from the voter list has been deleted. Vide order Annexure P-9,

the Returning Officer of the Jalandhar North Constituency has cancelled the registration of the petitioner in the electoral role. It is contended by learned counsel for the petitioner that the petitioner being an ordinary resident of the Constituency, fulfills the condition of registration under Section 19 of the Representation of the Peoples Act, 1950 and that he being in India since 1969, is a citizen of India, his legal rights having not been determined by the statutory authority under Section 15 of the Citizenship Act, 1955, the impugned order is not only illegal but has got effect of depriving the petitioner of his fundamental right to vote as a citizen of democratic country.

After hearing learned counsel for the petitioner and going through the provisions of the Representation of Peoples Act, 1950, I am of the considered opinion that a statutory appeal under Section 24 of the Representation of Peoples Act, 1950 is maintainable against the impugned order to the Chief Electoral Officer.

Learned counsel for the petitioner submits that since it is a clear case of violation of fundamental right, the remedy under Section 24 of the said Act will not be efficacious remedy.

This Court is of the opinion that the petitioner deserves to be relegated to the alternative remedy of availing the statutory appeal against the impugned order as all the questions of law and fact can always be raised before the said Appellate Authority.

Taking into consideration the imminent damage which could be caused to the petitioner, his name having been deleted from the electoral role by the impugned order, in the interest of justice, it is ordered that in case, the appeal is filed within a period of 10 days, the same will be

entertained. All the pleas taken up in the present writ petition could be taken up by the petitioner and it is expected that all the pleas will be considered by passing a speaking order in appeal.

In the interest of justice, it is ordered that operation of the impugned order Annexure P-9 will remain stayed during the period of filing of the appeal and adjudication of the first statutory appeal.

The petitioner will be entitled to cast his vote on the basis of the electoral role prepared on 30.11.2016 by the Assistant Electoral Registration Officer.

The writ petition is disposed of with above observation.

**(M.M.S. BEDI)**  
**JUDGE**

**February 01, 2017**  
*harsha*

Whether speaking/reasoned:  
Whether reportable:

Yes/No  
Yes/No