

CWP no. 2623 of 2017 (O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP no. 2623 of 2017 (O&M)

Date of Decision : 09.02.2017

Aam Aadmi Party (Punjab)

....Petitioner(s)

Versus

Election Commission of India and another

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MRS JUSTICE SNEH PRASHAR

Present : Mr.R.S.Cheema, Sr. Advocate with
Mr. Navkiran Singh, Advocate for the petitioner

MAHESH GROVER, J.(ORAL)

The petitioner is a political party engaged in a contest in the ongoing elections in the State of Punjab as also elsewhere. The petition is, however, restricted to concerns of protecting electronic voting machines in the State of Punjab during the interregnum when results are awaited.

Even though the petition proceeds to highlight the vulnerability of the electronic voting machines in the process of elections itself but subsequently the grievance of the petitioner peters down to protection of the electronic voting machines till the time they are exposed to the process of counting. Before us the learned counsel for the petitioner pleaded likewise with no reference or emphasis to the question of vulnerability of the electronic voting machines and their use in the electoral process.

Some of the steps have been suggested in the petition itself and we may incorporate the same in our order:-

(i) to ensure that no unauthorized person

(including the staff) is allowed in the Middle Perimeter of the Strong Rooms.

(ii) to ensure that in the outer perimeter, only persons with valid ID cards and authorization are allowed to enter

(iii) to make suitable arrangements for CCTV monitored any entry/exit from the outer perimeter inwards, which should be visible to candidates/their agents.

(iv) to make suitable arrangements to enable candidates and/or their authorized representatives to be stationed within visible distance and straight vision from the seal of the inner perimeter.

(v) to take all possible steps to ensure complete safety and security of the EVM's."

Some instances where the storage and protection of the electronic voting machines have given rise to the concerns of the petitioner also find mention in the petition in para 10.

We would, however, not comment on the veracity of these instances which would evidently have to be taken care of by the competent authority as also the other concerns regarding security of the electronic voting machines.

Notice of motion.

Mr. Namit Kumar, Advocate, who is senior standing counsel for the Election Commission of India is present in Court, having been served with an advance copy of the petition and accepts notice on behalf of the respondents.

On due consideration of the matter, we are of the opinion that the concerns raised by the petitioner about safety and security of the electronic voting machines would form an inherent part of the statutory functions of the Election Commission of India and even though verifiable instances of security breach do not manifest themselves in the petition, we would unhesitatingly accept the limited prayer of the petitioner to direct the Election Commission of India to ensure complete security of the machines which is not only the mandate of the statute empowering and obligating the Commission to do so but is also essential to uphold the sanctity of the electoral process besides being propelled by the concerns of all including this Court to instill confidence; sustain and enhance the credibility of the electoral process so inherent to a democracy.

The Election Commission may, therefore, take note of some suggestions made by the petitioner (Annexure P-1) to ensure security of the electronic voting machines and take appropriate steps in this regard which we are sure must already be in place. The suggestions of the petitioner are more or less in conformity with the standards operating procedures (Annexure P-1) and if some of them supplement and strengthen the same, they may be accepted, particularly, if they sub serve the purpose of securing the electronic voting machines.

Disposed of in above terms.

(Mahesh Grover)
Judge

(Sneh Prashar)
Judge

09.02.2017

rekha

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No