

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.9427 of 2017

Date of Decision.08.05.2017

Rajinder Kumar

.....Petitioner

Vs

State of Punjab and others

.....Respondents

Present: Mr. R.S. Rangpuri, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The grievance of the petitioner in the writ petition is to the fact that the impugned order/resolution dated 27.04.2017 (Annexure P-5) whereby he has been removed from the post of President of Nagar Panchayat, Bariwala, District Sri Muktsar Sahib by majority i.e. no confidence motion, is wholly erroneous as it has to be through secret ballot and not by show of hands. In this regards, he has relied upon the judgment of Hon'ble Single Bench of this Court *Rajinder Pal Kaur Vs. State of Punjab 2002 (1) RCR (Civil) 91*. However, he submits that this judgment was pre-amendment in the Act whereas in post amendment, show of hands is held valid one.

He further submits that no confidence motion, in case vote of MLA is excluded, has not proved statutory requirement of law of 2/3rd of majority and therefore, order under challenge is not sustainable. Even otherwise only two months period is left and therefore, no special circumstances had occurred for passing no confidence motion.

He further submits that in Haryana, the vote of MLA has held

of this Court in *Sanjeev Kumar Verma Vs. Director, Urban Local Bodies, Chandigarh and others 2015(1)RCR (Civil) 991.*

This Court confronted learned counsel for the petitioner to apprise as to whether there has been challenge to the vires of the Act i.e. Punjab Municipal Act with regard to voting right of the MLA, the answer was in negative. Unless and until the vires are not challenged, as per the provisions of the Act, MLA is entitled to cast vote in the meeting held for the purpose of no confidence against the incumbent. In view of the said fact, no confidence motion was passed by more than 2/3rd majority by including the vote of MLA. Even otherwise, the petitioner has not been debarred from contesting further election. It is only his removal as President, though he continues to remain as Municipal Councillor.

For the reasons aforementioned, no ground for interference is made out. Resultantly, the writ petition is dismissed.

(AMIT RAWAL)
JUDGE

May 08, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No