

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

CWP No.134 of 2018
DATE OF DECISION : 14th DECEMBER, 2018

Ranjit Kaur

.... Petitioner

Versus

State of Punjab and others

.... Respondents

**CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI
HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

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Present : Mr. S. S. Mattewal, Advocate for the petitioners.
 Ms. Anu Pal, Deputy Advocate General, Punjab.
 Mr. Gurbachan Singh, Advocate for respondent No. 3.
 Mr. Kanwaljit Singh, respondent No.4 - in person.

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A. B. CHAUDHARI, J. (Oral)

Rule.

Heard forthwith the consent of the counsel for the rival parties.

In the present petition there is challenge to the letter No.587 dated 22.12.2017 (Annexure P-3) issued by respondent No.4 by which the declaration of election of the petitioner as Corporator of Municipal Corporation, Ward No.23, Amritsar, which is sought to be reconsidered/reviewed.

In support of the writ petition the learned counsel for the petitioner submits that the petitioner was declared elected by respondent No.4 and was accordingly issued a certificate in Form-38 under Rule 85 of the Punjab Municipal Election Rules vide Annexure P-1 dated 17.12.2017. According to him the declaration of the petitioner as

Corporator having been made, the respondent No.4 thereafter ceased to have any authority. However under the political influence and particularly of the rival candidate Rajinder Kaur-respondent No.3 belonging to Congress party, respondent No.4 issued letter dated 22.12.2017 (Annexure P- 3) seeking to review the declaration of result of the election of the petitioner. He submits that the respondent No.4 has no authority in law to do so and on the contrary, he has committed misconduct.

Per contra, learned counsel for the respondents have opposed the writ petition. Respondent No.4 has filed an affidavit, which is taken on record, and in particular para 3 thereof he has stated that the Returning Officer, Satnam Singh, Computer Teacher, Government High School, Chetanpura, District Amritsar, who was Presiding Officer of Ward No.23 in question recommended to him that there was a mistake in counting and in fact respondent No.3 was the winner rather than the present petitioner and therefore he issued the impugned letter 22.12.2017 (Annexure P-3).

We have heard learned counsel for the rival parties.

It is not in dispute that on the basis of votes secured by the petitioner vide Annexure P-2, she was declared elected by declaration in Form-38 by respondent No.4 vide letter dated 17.12.2017 (Annexure P-1). In our opinion, respondent No.4 once having given the certificate of election from Ward No.23 to the petitioner, he became *functus officio*, and there is no rule allowing him to issue communication Annexure P-3 as late as on 22.12.2017 expressing intention to review the said declaration of result. The only remedy was to file election petition,

which is said to have been filed. The application for recounting also was not before the declaration of result as it is clear from the record. But respondent No.4, appears to have taken note of the grievance of respondent No.3. Such a procedure is unknown that too after declaration of the result. Obviously, therefore, respondent No.4 did not have any authority to issue letter (Annexure P-3) filed after declaration of the election of the petitioner.

The respondent No.4 is a PCS Officer working as Secretary, Regional Transport Authority, Jalandhar. The act of respondent No.4 in question is highly irresponsible and is not expected from such a high ranking officer. The respondent No.4 has committed misconduct and we think Government should take disciplinary action against him within a period of four months from today and report compliance to this Court.

In the result we make the following order.

ORDER

- (i) CWP No.134 of 2018 is allowed.
- (ii) The impugned letter No.587 dated 22.12.2017 (Annexure P-3) is quashed and set aside.
- (iii) No order as to costs.

(A. B. CHAUDHARI)
JUDGE

14th December, 2018
'raj'

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned: *Yes* *No*

Whether Reportable: *Yes* *No*