

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

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**CM No.17107-CII-2016 in/and
CM No.5912-CII of 2018 in/and
FAO No.4989 of 2016 (O&M)
Date of Decision : 21.03.2018**

Gurmeet Singh

..... Appellant

Versus

Election Tribunal-cum-Deputy Commissioner
Patiala and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Chanchal Kumar Singla, Advocate
for the applicant-appellant.

Mr. Ajay Pal Singh Gill, DAG, Punjab
for respondents No.1 and 3 to 5.

None for respondents No.2 and 6.

AJAY TEWARI, J. (Oral)

CM No.17107-CII-2016

For the reasons recorded, the application is allowed. Delay of
60 days in filing the appeal is condoned.

CM No.5912-CII of 2018

For the reasons recorded, the application is allowed.
Documents Annexures A-5, A-6 and A-7 are taken on record.

FAO No.4989 of 2016

This appeal has been filed against the dismissal of the election
petition which was filed by the appellant.

The matter had been fixed in the motion list in this Court. On

the request of the counsel for the appellant the matter was taken up in the urgent list since as per him fresh elections were coming up.

Brief facts are that the election to the post of Sarpanch Kamalpur, Tehsil Rajpura, District Patiala were held on 03.07.2013 and respondent No.2-Kuldeep Singh son of Surinder Singh @ Sawinder Singh was elected as Sarpanch. The election petition was filed on the ground that Kuldeep Singh was ineligible since he was in illegal possession of Panchayat land/Local Bodies' land. The Election Commission held that the appellant had not been able to prove the fact of illegal possession of Kuldeep Singh and consequently dismissed the election petition.

Counsel for the appellant has argued that the Tribunal did not consider the demarcation report Ex.P2 as per which the respondent No.2-Kuldeep Singh had encroached upon Khasra Nos.179 and 159. He has read the report which in Punjabi states that respondent No.2-Kuldeep Singh had made huge heap of dung cakes on the Panchayat land. Incidentally, during the pendency of this case the State of Punjab has filed a fresh status report in which it has been mentioned that at one point of time respondent No.2-Kuldeep Singh had made heap of dung cakes but the same has been removed.

In my considered opinion, making a stack of dung-cakes cannot be taken to be an encroachment in the sense which would render a person ineligible for contesting elections. Counsel for the appellant has also relied upon other letters but I find that those are general allegations where even the particulars of the land alleged to be under the encroachment of respondent No.2-Kuldeep Singh were not mentioned.

In the circumstances, no fault can be found with the impugned judgment.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

21.03.2018
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Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No