

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

C. W.P. No.12141 of 2019

Date of Decision:- 08.05.2019

Paramjit Singh Chhatwal

....Petitioner

vs.

The Election Commission of India and others

....Respondent

**CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present:- Mr. Alok Mittal, Advocate,
for the petitioner.

SUDHIR MITTAL, J.

The petitioner alleges that he is the holder of a valid Voter ID Card dated 16.12.1994 for the Chandigarh Parliamentary Constituency. On notification of General Elections for the 17th Lok Sabha, he submitted his nomination on 29.4.2019. He was however, asked to furnish a fresh Form 26 on the next day i.e. 30.4.2019. The fresh affidavit was submitted on 30.4.2019 and the same was accepted but the nomination paper was rejected on the ground that a certified copy of the electoral roll had not been furnished. Copy of this order has been placed on record as Annexure P-9. Appeal against the said order has been dismissed vide order dated 6.5.2019 (Annexure P-10) on the ground that no appeal is maintainable against the rejection of a nomination paper. Thus, the jurisdiction of this Court under Article 226 of the Constitution of India has been invoked seeking quashment of order dated 30.4.2019 (Annexure P-9) and a direction in the nature of Mandamus to accept the nomination paper of the petitioner as an independent candidate.

Clearly, the petitioner is aggrieved by the alleged wrongful rejection of his nomination paper.

Sh. Namit Kumar, Advocate is present in Court and being the standing counsel of the Election Commission of India has assisted us.

Admittedly, as per the notification dated 22.4.2019, the last date for submission of nominations was 29.4.2019. At this stage, no direction can be issued to the Election Commission of India to accept the nomination paper of the petitioner. Moreover, Article 329 (b) of the Constitution of India places an embargo on Courts not to entertain any challenge to an election once the same has been notified. Although, the said provision of the Constitution of India cannot be said to bar the jurisdiction of the High Court under Article 226 of the Constitution, there are innumerable judgements of the Hon'ble Supreme Court of India laying down that the High Court should restrain itself from exercising its writ jurisdiction so that an aggrieved person may get his grievance redressed through an election petition only. A parallel challenge under Article 226 of the Constitution of India should not be permitted to be made.

Recently, we have discussed the law on the subject in CWP No.11665 of 2019 titled as **Mahender** vs. **Elections Commission of India and others**, decided on 3.5.2019 and the said judgment is squarely applicable in this case as well.

Thus, this petition has no merit and is dismissed. The petitioner, however, shall be at liberty to challenge the rejection of his nomination through an election petition after completion of the election process.

(DAYA CHAUDHARY)
JUDGE

(SUDHIR MITTAL)
JUDGE

May 08, 2019

poonam

Whether speaking/reasoned

Yes

Whether reportable

No

