

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

C. W.P. No.13301 of 2019

Date of Decision:- 20.05.2019

Sanjeeva Thakur Parihar

....Petitioner

vs.

Returning Officer, Election Commission of India and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Petitioner in person.

SUDHIR MITTAL, J.

The petitioner alleges that on 29.4.2019, he submitted his nomination paper for contesting the election being held for Gurdaspur Parliamentary constituency. His nomination paper was accepted and he also took the oath as required by the Constitution of India. Thereafter, he was asked to deposit ₹ 25,000/- in cash only in lieu of security deposit. The petitioner had not carried this amount of money as the web-site of Election Commission of India, did not mention any such requirement. He was carrying with him a sum of ₹ 10,000/- in cash and a cheque book and he offered to make the payment through cheque or to pay ₹ 10,000/- immediately and the balance ₹ 15,000/- before scrutiny of nomination. However, the Returning Officer refused his offer and rejected the nomination paper of the petitioner. Thus, a direction be given to the Election Commission of India to permit the petitioner to contest the election of Gurdaspur Parliamentary Constituency.

2. The petitioner, who is appearing in person, mentioned this matter before the first Puisne Judge on 17.5.2019, who directed listing of the case on the same day. The matter was listed before us at 2:00 P.M. but the petitioner failed to put in

appearance. Thus, the case was adjourned to today.

3. The petitioner submits that he could not put in appearance on 17.5.2019 as the web-site did not show the listing of the case. Although the election has taken place now, a direction may be issued to the Election Commission to withhold the result of the Gurdaspur Parliamentary Constituency and hold a re-poll in the said Constituency after accepting the nomination of the petitioner.

4. Elections are an expensive process. Huge amount of public money is spent in free and peaceful conduct thereof. Re-poll of any Parliamentary Constituency cannot be ordered merely at the asking of a candidate especially when he did not deem it appropriate to approach this Court immediately after his grievance arose. The nomination paper of the petitioner was rejected on 29.4.2019 and he approached this Court at the first instance on 17.5.2019, which makes it apparently clear that he was not vigilant enough. In any case, wrongful rejection of a nomination paper is a ground for challenging an election by way of an election petition. It may also be stated that a writ petition under Article 226 of the Constitution of India, is barred by Article 329(b) of the Constitution as has been recently held by us in CWP No.11665 of 2019 titled as **Mahender** vs. **Election Commission of India and others**, decided on 3.5.2019 and the said judgment is squarely applicable in this case as well.

5. The writ petition is accordingly dismissed. The petitioner shall, however, be at liberty to get his grievance redressed through appropriate proceedings in accordance with law.

(DAYA CHAUDHARY)
JUDGE

(SUDHIR MITTAL)
JUDGE

May 20, 2019

poonam

Whether speaking/reasoned

Yes

Whether reportable

No