

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

CWP-20451-2019

Date of decision : 01.11.2019

Neeru Adlakha & ors.

...Petitioners

V/s

State of Haryana & ors.

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Ms. R.K. Thind, Advocate for the petitioners.

Mr. S.S. Pannu, DAG Haryana.

Mr. Vikram Singh, Advocate for respondents no. 4 to 10.

Mr. Atul Lakhanpal, Sr. Advocate with
Mr. R.S. Chahal, Advocate for respondent no. 12.

RAJAN GUPTA J.

Present is a writ in the nature of certiorari for setting-aside election of the President of Municipal Committee, Ghanaur, District Sonipat having been conducted against the provisions of Haryana Municipal Act, 1973 and The Haryana Municipal Elections Rules, 1978. Brief factual background of the case is that elections to Municipal Committee, Ghanaur, District Sonipat were held in the year 2016. In the said elections seventeen members were elected. Thereafter, President of the Municipal Committee was elected. However, no confidence motion was moved against the previous President due to which he was removed from the office in April, 2019. Fresh process for electing the President was undertaken and voting took place on 06.07.2019. In the said voting, respondent no. 9 was elected as President. Petitioners have impugned his election on the ground that local

participated in the elections despite a statutory bar. Relying upon judgment in '*Sanjeev Kumar Verma vs. Director, Urban Local Bodies, Chandigarh and ors., 2015 AIR (Punjab) 1998*, learned counsel for the petitioners contends that two more votes than seventeen were polled in the elections i.e. of the MP and MLA, which led to election of Sat Parkash Sharma (respondent no. 9 herein) who secured 10 votes and the defeated candidate, 9 votes. The plea has been vehemently opposed by State counsel as well as counsel appearing for the private respondents. At the outset, they pointed out that Full Bench judgment in *Sanjeev Kumar Verma's* case (supra) was considered in a subsequent judgment i.e. *CWP-15972-2016 titled as Monika & ors. vs. State of Haryana & ors. decided on December 05, 2016*, wherein it has been clearly held that issue regarding voting rights of MPs and MLAs were no longer *res integra*. Proviso to section 9(3)(ii) & (iii) of the Act clearly specify that MP/MLA would have no right to contest for the post of President or Vice President of a local body, however there would be no restriction on their right to vote. There can be no dispute with the proposition that proviso puts no restriction/limitation on the right to vote of these persons. As there is no ambiguity in proviso to Section 9(3)(ii) & (iii) of the Act, it is inexplicable how petitioners seeks to place reliance on judgment in *Sanjeev Kumar Verma's* case (supra). Apart from this, a contention has raised before this court that the local MPs and MLAs were not duly notified as nominated Members of the Municipal Council. On a query being put to State counsel in this regard, he submits that notifications were duly issued and are operative at present. Learned counsel for the petitioners has also raised certain issues with regard to irregularities in the conduct of elections and violation of Rule 71 of The Haryana Municipal

cannot be gone into writ jurisdiction. We, thus, find no reason to interfere in our extra ordinary writ jurisdiction. Petition is hereby dismissed.

(RAJAN GUPTA)
JUDGE

November 01, 2019
Ajay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No