

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

CWP-(PIL)-196-2019 (O&M)
Date of decision:- 22.10.2019

Ravinder Singh Rana

...Petitioner

Versus

The State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIV SHARMA

Present:- Mr. Baltej Singh Sidhu, Advocate,
for the petitioner.

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RAVI SHANKER JHA, C.J. (ORAL)

This petition has been filed by the petitioner by way of a Public Interest Litigation praying for a direction or order to respondents No. 1 and 2 i.e. the State of Punjab and the Speaker of the Punjab Vidhan Sabha respectively to decide the petitioner's legal notice dated 31.05.2019 with a further direction to the authorities to immediately withhold the pay, perks, allowances, all financial and other benefits that are being paid to the private respondents No. 3 to 6 as Members of the Legislative Assembly, Punjab as they have incurred and are, therefore, disqualified on account of having defected from their party.

The learned counsel for the petitioner submits that the private respondents No. 3 to 6 were elected as the Members of the Legislative Assembly from Aam Admi Party, but they later switched over to other parties, thereby incurring disqualification under Articles 102(2) and 191(2) of the Constitution of India and Clause 2(1)(a) of the Tenth Schedule which makes the provision for disqualification on the ground of defection.

Learned counsel for the petitioner during the course of arguments submits that he is not pressing the relief or praying for a direction to respondent No. 2 - Speaker of the Punjab Assembly

to decide his representation. He submits that he may be permitted to withdraw that prayer. He, however, submits that as respondents No. 3 to 6 have incurred the disqualifications prescribed under the law, therefore, they be declared as disqualified candidates. Learned counsel for the petitioner has relied upon the decision of the Supreme Court rendered in *Dr. Mahachandra Prasad Singh Vs Chairman, Bihar Legislative Council and others* (2004) 8 SCC 747 and has taken this Court through para 7 of the decision in support of the submission.

Having heard learned counsel for the petitioner and perused the decision of the Supreme Court as well as the provisions of the Tenth Schedule, we are of the considered opinion that the final authority to take a decision in respect of the disqualification of respondents No. 3 to 6 is respondent No. 2 – Speaker of the Punjab Assembly. The Supreme Court in paragraph 7 of the decision relied upon by the petitioner and quoted in his petition has categorically laid down the law in this regard. The Supreme Court in the aforesaid paragraph has also held that the Speaker or the Chairman, as the case may be, has to take a decision in this regard. In these circumstances, this Court is precluded from taking any decision regarding the disqualification of respondents No. 3 to 6. The petitioner having withdrawn his prayer for a direction to the Speaker to consider and decide his legal notice, nothing further survives for adjudication in the petition.

The petition filed by the petitioner being meritless is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(RAJIV SHARMA)
JUDGE

22.10.2019
Amodh

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