

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

**CWP No.6683 of 2020
Decided on: 13.03.2020**

Major Singh

... Petitioner

Versus

The Joint Registrar Co-operative Societies, Patiala & others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.B.S.Seemar, Advocate, for the petitioner.

Ms.Maloo Chahal, DAG, Punjab.

Mr.Ashwani Prashar, Advocate, for caveator-respondent No.4.

G.S. Sandhawalia, J. (Oral) :-

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India, is to the interim order dated 11.02.2020 (Annexure P-6), passed by respondent No.1, whereby the said authority has declined the stay application in the appeal filed by the petitioner.

Notice of motion.

Ms.Chahal and Mr.Prashar accept notice on behalf of the State and caveator-respondent No.4.

The primary ground argued by Mr.Seemar is that the reasons qua dismissing the stay application are missing and therefore, the order is to be treated as non-speaking and is liable to be set aside on this ground. It is submitted that the proceedings have now been deferred to 23.03.2020, thereafter and the stay application also prayed that the election which is to be held in place of the petitioner, was subject matter of stay application,

which is now slated to be fixed for 16/17.03.2020, as per Annexure P-7. It is, accordingly, submitted that reasoned order should have been passed if the stay is to be declined.

The factual matrix is narrow, to the extent that the petitioner was elected from zone No.7 of Village Pakhoke of the respondent No.3-Society whereas the caveator/respondent No.4 was elected from zone No.5, which would be clear from the proceedings of the said Society dated 09.09.2019 (Annexure P-1). Respondent No.4 filed an appeal against the said resolution on the ground that the petitioner, as such, was employed as a Village Chowkidar and was getting a salary of Rs.1250/- per month and therefore, was not liable to stand for elections, as per the bye-laws 35(h), which weighed with the Deputy Registrar, while passing the order dated 22.01.2020 (Annexure P-3), to set aside the election of the present petitioner. Resultantly, an appeal was filed by the petitioner along with the application for stay, as noticed above. The application has been dismissed while noting as under:

“During the course of proceedings above said parties came present. Arguments of the present parties were heard on the stay application. After hearing the arguments, application for stay is dismissed and order pronounced in the Court. The respondents sought to file reply till next date of hearing. The case is adjourned for 25.02.2020.”

It is apparent from the reading of the above-said order that reasons, as such, are absent as to what prevailed with the respondent-Authority and whether the petitioner had a prima facie case for stay and whether irreparable loss and injury would be caused to him and whether

the balance of convenience was in favour of the petitioner or the private-respondent or the Society in question. In such circumstances, since reasons go to the root of the matter, this Court is of the opinion that the impugned order cannot sustain legal scrutiny, even though it may be interim in nature, as valuable rights of the petitioner of his election are being prejudiced. If election is held on 16/17.03.2020 another candidate would get some vested rights on account of the election being conducted and therefore, it would only led to further vested rights and complicate the litigation.

In such circumstances, since the appeal was filed only by the private-respondent No.4, this Court deems it fit that the order dated 11.02.2020 (Annexure P-6) be quashed. The said respondent No.1 shall decide the stay application, by passing a reasoned order. Parties shall put in appearance before the said Authority on the date already fixed in the appeal filed, i.e., 23.03.2020.

The election which is proposed to be held on 16/17.03.2020, shall not be held till the final orders are passed on the stay application, as indicated above.

Accordingly, the present writ petition is disposed of, with the above-said observations. Copy of this order be supplied to counsel for the petitioner, under the signatures of Special Secretary of this Court.

March 13, 2020
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No