

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

107/5

Civil Writ Petition No.723 of 2021
Date of Decision: January 25th, 2021

Gursewak Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. Sandeep Kumar Bokolia, Advocate
for the petitioner.

Mr. S.P.S. Tinna, Additional Advocate General, Punjab.

(PROCEEDINGS THROUGH V.C.)

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the final notification dated 17.11.2020 (Annexure P-1) and the subsequent orders/ voter lists, copies of which have been appended as Annexures P-5 to P-21 for the upcoming election of Municipal Council Jaito, District Faridkot.

2. The basic argument of the counsel for the petitioner is that the objections submitted by the petitioner on 30.10.2020 (Annexure P-2) to the draft notification dated 27.10.2020 have not been considered by the respondents. Referring to the voters' list as also with reference to the number of votes in the particular wards, it has been contended by the counsel for the petitioner that there is a glaring difference of number of voters when seen with reference to ward No.1 vis-a-vis the other wards, especially ward No.9. He on this basis contends that there has been violation of Rule 6 (b) of the Delimitation of Wards of Municipalities Rules, 1972 (hereinafter referred to as '1972 Rules'). Prayer has thus been made for setting aside the impugned

notification and the consequential action taken by the respondents.

3. Counsel for the State, on the other hand, asserts firstly on the factual aspect that no objections have been submitted by the petitioner as there is no receipt of such objections as is alleged to have been submitted by the petitioner. That apart, he asserts that the counsel for the petitioner has misread the provisions of Rule 6 of 1972 Rules, which speak of population, whereas the petitioner is referring to the voters in a particular ward. He on this basis contends that the writ petition deserves to be rejected on this ground alone.

4. Having considered the submissions made by the counsel for the petitioner and on going through the pleadings i.e. in the writ petition as well as the reply, which has been filed by the respondents, we are unable to accept the contention of the petitioner that the objections have been submitted by the petitioner on 30.10.2020 (Annexure P-2). In the light of the fact that objections have not been received by the respondents, the question of non-consideration thereof does not arise. As regards the violation of Rule 6 of 1972 Rules is concerned, the contention of the counsel for the petitioner is based upon the voters in a particular ward, whereas as per Rule 6 (b), the word used is 'the population' of each ward. Reference to Rule 6 (b) would be necessary, which reads as follows:-

“6. Principles for delimitation of wards of Municipality:- *The following principles shall be observed by the Board in the delimitation of wards of a Municipality, namely:-*

(a) XXXX XXXX XXXX

(b) Each Municipality shall be divided into wards in such manner that the population of each ward, as far as

practicable, is the same throughout the Municipality, with a variation upto ten per cent, above or below the average population figures”

A perusal of the above would show that it relates to the population of each of ward and the variation also in the number is with reference to the average population figures. In the absence of any pleadings on the part of the petitioner with reference to the population, the plea of the counsel for the petitioner cannot be accepted. It is apparent that the petitioner has proceeded on a wrong assumption that the parity in the number of voters would be the governing factor with regard to the aspect of number of votes in a particular ward, which is misconceived. As has been stated above, the said aspect is with reference to the population and not to the number of voters in a particular ward.

5. In the light of the above, we do not find ourselves in agreement with the contention of counsel for the petitioner and, therefore, dismiss the present writ petition being devoid of merit.

(AUGUSTINE GEORGE MASIH)
JUDGE

January 25th, 2021
Puneet

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No