

114(2)
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 2888 of 2021(O&M)

Date of decision: 11.02.2021

Mohit Yadav

..... Petitioner (s)

V/s.

State of Punjab and others

..... Respondent (s)

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR
HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Tejeshwar Singh, Advocate, for the petitioner.

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

Sanjay Kumar, J. (Oral)

CM-2182-CWP-2021

This application is ordered and Annexures P-14 to P-16 are taken on record.

Main case

The petitioner submitted his nomination to contest the election to the post of Councilor of the Municipal Council, Nayagaon, Tehsil Kharar, District SAS Nagar, from Ward No. 21. His nomination was rejected by the Returning Officer, *vide* order dated 04.02.2021, on the ground that his proposer did not affix his signature in the nomination paper.

The present writ petition was filed on 08.02.2021. Significantly, the election schedule put in place under the Notification dated 30.01.2021 required finalization of the candidates to be undertaken on 05.02.2021, being the last date for withdrawal of candidature. The writ petition was therefore filed after the finalization of the candidates.

However, reliance was placed by the petitioner on the interim order dated 05.02.2021 passed by this Court in ***CWP No. 2780 of 2021***, titled '***Sahibee Anand V/s. State of Punjab and others***'. No doubt, that was also a case where the rejection of the nomination paper was on the ground that the proposer had not affixed his signature in the nomination paper, but the distinguishing factor between these two cases is that the petitioner therein approached this Court on 05.02.2021 itself, before the finalization of the candidates, and was permitted to get his proposer to affix his signature before 5.30 P.M. on that very same day. Unlike the petitioner in the present case, the petitioner in that case secured that interim order in keeping with the election schedule. The interim order secured by the petitioner in the present case on the strength of that interim order is therefore unsustainable due to this factual distinction. That apart, this Court dismissed ***CWP No. 2780 of 2021***, titled '***Sahibee Anand V/s. State of Punjab and others***', today holding that the failure of the proposer to affix his signature in the Nomination Form No. 20 would be a defect of substantial character which cannot be rectified at a later date.

In that view of the matter, the petitioner is not entitled to seek any relief with regard to his defective nomination form or seek to participate in the election at this stage.

The writ petition is devoid of merit and is accordingly dismissed.

Interim order dated 08.02.2021 shall stand vacated.

In the light of this final order, CM-2185-CWP-2021 shall also stand dismissed.

No order as to costs.

(SANJAY KUMAR)
JUDGE

(ARCHANA PURI)
JUDGE

11.02.2021

rakesh

whether speaking	:	<i>Yes/no</i>
whether reportable	:	<i>Yes/no</i>