

CWP No.9183 of 2021 (O&M)
Date of decision : 28.04.2021

Davinder Kumar & ors.

..... Petitioners

versus

State of Punjab & ors.

..... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Harkesh Manuja, Advocate
for the petitioners.Mr. S.P.S.Tinna, Addl. A.G., Punjab.
For the respondents.

AJAY TEWARI, J. (Oral)

This is a petition in which it has been alleged that despite the result of the elections held on 14.02.2021 the meeting to hold the election for the post of office bearers has not been held (which as per the law had to be conducted within 14 days) only because in this Municipality the Akali candidates have got a majority and the reason for this delay is that the ruling party wants to capture the post of President and Vice President by hook or by crook.

Notice of motion. On the asking of the Court, Mr. S.P.S.Tinna, Addl. A.G., Punjab accepts notice on behalf of the respondents and on instructions from Mr.Amit Gupta, SDM, Ferozepur states that now the date for election of the office bearers has been fixed for 30.04.2021.

Counsel for the petitioners has further argued that even though the main prayer of the petitioners has been redressed but in view of the facts mentioned in the petition it would be appropriate if this

Court direct that there must be some measures undertaken to ensure that the election is free and fair. He has relied upon a judgment of Division Bench of this Court passed in CWP No.17198 of 2015 decided on 24.08.2015 titled as Kuljit Singh Bedi Vs. The State of Punjab & others. The orders passed by the Division Bench is reproduced as under :-

“In deference to the order dated 19.08.2015, Dr.S.Karuna Raju, IAS, Divisional Commissioner, Roopnagar is present. He has also filed his affidavit suggesting the steps he proposes to take to ensure fair and impartial election of Mayor, Senior Deputy Mayor and Deputy Mayor of Municipal Corporation, SAS Nagar Mohali which is now fixed for 28.08.2015 at 3.00 p.m. Mr.Raju has suggested that Section 144 Cr.P.C. would be imposed in 500 meter area surrounding the venue of meeting, i.e., outside the hall of venue, to prevent any unlawful assembly. The Executive Magistrate will be deployed inside and outside the venue of meeting. The presence of sufficient police-force inside and outside the venue shall also be ensured. In this regard, we direct the Senior Superintendent of Police, SAS Nagar Mohali to provide full assistance to the Divisional Commissioner.

It is further averred that the entire proceedings of the meeting will be videographed and such recording shall be preserved for perusal of the Court and/or otherwise. CCTV coverage inside and outside the venue shall be carried out. The affidavit suggests that once a member enters the meeting hall, he will not be allowed to leave the house without the permission of the Chair. No member shall be allowed to carry his/her mobile-phone inside the meeting hall and will also have to bring an identity proof to prevent the entry of any unauthorized person. The other procedural requirements to be followed have also been briefly mentioned in the affidavit.

We have no reason to doubt that the Divisional Commissioner shall ensure fair, free and impartial election as per the responsibility entrusted to him.

If the petitioner will have still any grievance with regard to the manner in which the proceedings would be conducted on 28.08.2015, he shall be at liberty to approach the Court.

The writ petition stands disposed of accordingly.

Let a copy of this order be given dasti to Mr.Rajesh Bhardwaj, Additional AG, Punjab and Mr.Kamal Sehgal, counsel for the Municipal Corporation, SAS Nagar Mohali, for information and necessary compliance.”

Learned State counsel states that there is no such prayer made in this petition but he has very fairly accepted that it should be the endeavour of everybody to ensure that a free and fair election take place.

In our considered opinion, while going through the order of the Division Bench in *Kuljit Singh Bedi's case (Supra)* we find that it would also be appropriate if in the present case Section 144 Cr.P.C. is imposed within an area surrounding 500 meters of the election venue and to ensure that sufficient police force is available. Further no member should be allowed to leave the venue after he enters without the permission of the Chair; no member be allowed to take any mobile phone or recording device inside the voting hall and every member will carry identity proof to prevent the entry of any unauthorized person. All other steps be also taken to ensure free and fair election.

The writ petition stands disposed of with the above terms.

Since the main case has been decided, the pending Miscellaneous Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

28.04.2021

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Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No