

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

CWP-9760-2021 (O&M)  
Date of decision: 03.09.2021

Suman Devi and others ...Petitioners

Vs.

State of Punjab and others ...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI  
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr. Krishan Singh Dadwal, Advocate,  
for the petitioners.

Mr. Suveer Sheokhand, Addl. A.G., Punjab.

Mr. Manish Kumar Singla, Advocate,  
for respondent Nos. 10 and 11.

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Ritu Bahri, J. (oral)

Petitioners are seeking setting aside of the proceedings of the meeting dated 07.05.2021 with regard to the election of President and Vice President of Municipal Council, Jaiton, District Faridkot, whereby respondent No.5/convener, at the behest of respondent Nos.7 to 11, has declared respondent Nos.10 and 11 as President, Vice President and petitioner No.1 as Senior Vice President respectively. Further direction is being sought to respondent No.1 to appoint some responsible officer or person as Local Commissioner for holding election to the post of President, Senior Vice President as well as Vice President.

The Department of Local Government, Punjab, vide its

elections to elect the members of Municipal Corporations/Municipal Councils and Nagar Panchayats to be held by 20.02.2021. As per notification dated 30.01.2021 under Section 35 of the Punjab State Election Commission Act, 1994 (for short “Act of 1994”) election programme was issued to conduct the General/by Election to elect the members of Municipal Corporations/Municipal Councils/Nagar Panchayats. Last date of filing the nomination papers for the proposed candidates was fixed as 03.02.2021 and the last date for withdrawal of the candidature was fixed as 06.02.2021. The date of polling was fixed as 14.02.2021 and the counting of votes was ordered to be taken place on 17.02.2021. The whole election process was to be completed by 20.02.2021. After the election, result was declared on 14.02.2021 and 17 Municipal Councillors were declared as elected, details of which, have been given in para no.05 of the petition. As per the Punjab Municipal (President and Vice-President) Election Rules, 1994, complete process has been provided for manner of election as well as the manner, in which meeting is to be conducted. The Deputy Commissioner or any other officer authorized by him in this behalf, shall within a period of 14 days from the date of notification of election of members, newly constituted municipality, fix the meeting by giving not less than 48 hours notice to all the elected members for their oath as well as the election of President and Vice President.

In the present case, respondent No.5-Convener-cum-Additional Deputy Commissioner, Faridkot issued a notice dated 05.05.2021 to all the elected Municipal Councillors under Rule 3 (1) of the rules for the purpose of taking the oath and also to conduct the election of President and Vice Presidents. Copy of one such notice received by petitioner No.1 is attached

as Annexure P-2. On 07.05.2021, respondent No.5 came to the office of respondent No.6 at 11.00 A.M. along with Manjeet Singh Jhalbhati-respondent No.9, co-convener from Congress-I party and they were holding envelop, which was handed over to them by respondent No.8, while he was present in the office of Market Committee, Jaiton. Respondent No.5, without writing any proceeding, just asked the Municipal Councillors to put their signatures on the register as a token of their presence and also gave information for the purpose of taking the oath as provided under Section 24 (1) of the Act. All the Municipal Councillors were given oath and their forms were taken, which were duly signed by the Municipal Councillors. Thereafter, without putting further resolution in the house, respondent No.5, after taking envelop from respondent No.8, opened the same and announced the names of following persons as President and Vice Presidents:-

- (i) Respondent No.10-Surjeet Singh Baba, Municipal Councillor (Congress-I), as President.
- (ii) Respondent No.11-Jatinder Kumar Bansal, Municipal Councillor as Vice President.
- (iii) Petitioner No.1-Suman Devi as Senior Vice President.

Learned counsel for the petitioners has argued that out of 17 Municipal Councillors, only 07 were from the ruling party in the State of Punjab. With regard to the aforesaid announcement, no procedure was written by respondent No.5. Immediately thereafter, the petitioner raised protest inside the house. However, respondent No.5, along with respondent No.8, left the office of Municipal Council. Thereafter, all 10 elected members along with MLA, got a joint snap by holding the newspaper dated 07.05.2021 in their hands. One photograph was without news item. The said photographs are attached as Annexures P-3 and P-4 respectively.

Written objections were also prepared on 07.05.2021 and an email was sent to respondent No.4 as well as respondent Nos.1, 3, Chief Election Officer and Hon'ble the Chief Justice of Punjab and Haryana High Court. Annexure P-5 is the letter sent to the Deputy Commissioner, Faridkot. Petitioners have also placed on record copy of CD (Annexure P-6), whereby respondent No.7 had stated that he has received the envelop, which he had passed on to the Municipal Councillors. The news items, published in this regard, have been attached as Annexures P-7, P-8 and P-9 respectively.

Learned counsel for the petitioners has vehemently argued that the petitioners were having majority and out of 17 elected members, they have 10 in number. However, names of respondent Nos.10 and 11 have been announced as President and Vice President without having any majority. It has been further argued that the meeting was not held by respondent No.5 as per Rule 3 of the Punjab Municipal (President and Vice-President) Election Rules, 1994 as well as the provisions of the Punjab Municipal Act, 1911.

Upon notice, separate replies were filed by respondent Nos.1 & 3, respondent No.7 and respondent Nos. 10 and 11. In their short reply, respondent Nos. 1 and 3 have stated that the Deputy Commissioner, Faridkot, vide order dated 05.05.2021, authorized the Additional Deputy Commissioner, Faridkot, as Convener for conducting the elections as provided under Section 3 of the Punjab Municipal (President and Vice President) Election Rules, 1994. The meeting was held on 07.05.2021 and as per proceedings of the meeting, Sh. Surjeet Singh was elected as President of the Municipal Council being unopposed with the show of hands; Smt. Suman Devi was elected as Senior Vice President as unopposed

with the show of hands and Sh. Jatinder Kumar Bansal was elected as Vice President. The proceedings of the meeting dated 07.05.2021 were received by the Directorate, Local Government, Punjab and accordingly, the notification dated 12.05.2021 was issued under Section 24 (2) of the Punjab Municipal Act, 1911 for the election of Sh. Surjeet Singh as President of the Municipal Council, Jaiton. Representation dated 07.05.2021 was submitted by the petitioners and a report was sought from the Deputy Commissioner, Faridkot, vide letter dated 13.05.2021. The said report was still awaited.

As per reply filed by Sh. Gurjeet Singh, Convener-cum-Additional Deputy Commissioner, Faridkot-respondent No.7, it is stated that all the members had attended the meeting and marked their presence. After administering oath in the office as Members, proceedings for election of the President, Senior Vice President and Vice President were started. Sh. Surjeet Singh was elected as President of the Municipal Council being unopposed with the show of hands; Smt. Suman Devi was elected as Senior Vice President as unopposed with the show of hands and Sh. Jatinder Kumar Bansal was elected as Vice President. None of the members raised any objection during the proceedings of meeting. Even after the elections, the members greeted each other and also to the President, Senior Vice President and Vice President. The entire proceedings were conducted in accordance with law. The allegations levelled against respondent No.7 were false.

Respondent No.10-Surjeet Singh Baba was elected as President as his name was proposed by Municipal Councillor from Ward No.6 i.e. Sh. Tulsī Ram seconded by Municipal Councillor from Ward No.5 i.e. Smt. Jaspal Kaur. In this election, Smt. Suman Devi-petitioner No.1 has been

elected as Senior Vice President and her name was proposed by Municipal Councillor from Ward No.11 i.e. Smt. Seema Rani, seconded by Municipal Councillor from Ward No.16 i.e. Sh. Khushi Ram.

Further, Sh. Jatinder Bansal-respondent No.11 was elected as Vice President as his name was proposed by Smt. Jaspal Kaur, Municipal Councillor from Ward No.6. At that time, petitioners did not oppose the elections for the aforesaid three posts. Even, Smt. Suman Devi-petitioner No.1, did not oppose the election when she was elected as Senior Vice President, which means she has accepted her post as well as the said elections. It has been further stated that the proceedings were recorded in the proceeding book and conducted as per law. Petitioner Nos.5 and 9 are well aware about the procedure as they were Councillors in the previous term. Copy of proceedings are attached as Annexure R7/1. Petitioner No.1 is satisfied with her election as Senior Vice President and is seeking quashing of the elections of President and Vice President. She cannot challenge the proceedings dated 07.05.2021 in piecemeal. The President and Vice President can now be removed by way of 'no confidence motion' against them in the general house.

As per separate reply filed by respondent Nos.10 and 11, the present petition is sought to be dismissed on the ground that the petitioners have not intentionally attached the proceedings of the meeting dated 07.05.2021. Petitioners are seeking quashing of the proceedings dated 07.05.2021 only with regard to the election of President and Vice President and not qua Senior Vice President, meaning thereby that petitioner No.1 is satisfied regarding her election as Senior Vice President. It has been further stated that the CD (Annexure P-6) placed on record by the petitioners, is

required to be proved in accordance with Section 65 B of the Indian Evidence Act, 1872, as possibility of manipulating the same cannot be ruled out. The elections, which took place on 07.05.2021, have already been notified. Elections of all the three posts i.e. President, Vice President and Senior Vice President had been conducted in accordance with law as their names were proposed by the elected members. After the result has been notified, petitioners can only proceed by moving a resolution of “no confidence motion” against them.

Vide order dated 19.05.2021, the Principal Secretary-respondent No.2 was directed to personally go into this issue and decide the same after obtaining the report from the Deputy Commissioner concerned and after hearing all the petitioners, who might be represented through counsel. The petitioners were also directed to appear before respondent No.2 on 24.05.2021 (or on any other date which the respondent No.2 might give). Respondent No.2 was further directed to pass a speaking order on or before 07.06.2021. Thereafter, vide CM-9319-CWP-2021, reports, minutes of meetings and speaking order were placed on record as Annexures R-2/1 to R-2/7.

Speaking order dated 07.06.2021 (Annexure R-2/7) has been passed by the Principal Secretary, Local Government, Punjab, in compliance with the directions given by this Court on 19.05.2021. A perusal of this order shows that all the petitioners were called for personal hearing on 24.05.2021. On that date, 08 petitioners came present along with their counsel Sh. Naresh Kumar, Advocate, while other three petitioners did not come present. Thereafter, the case was fixed for 04.06.2021 and on that day, the Executive Officer, Municipal Council, Jaiton came present while the

ADC-cum-Convener of the meeting dated 07.05.2021 attended the hearing through video conferencing. On 04.06.2021, remaining Councillors and the MLA, who did not come present for personal hearing on 24.05.2021, came present in the office of the Principal Secretary, Local Government, Punjab. Counsel for the petitioners had submitted CDs containing Video Clips and affidavits of the petitioners.

As per report of the Deputy Commissioner, Faridkot dated 27.05.2021, Sh. Manjit Singh Jhalbhuti and SHO from the other area were not present in the meeting dated 07.05.2021. The same was supported by the Additional Deputy Commissioner-cum-Convener as well as S.S.P., Faridkot, who stated that no Police Officer was present in the meeting. During the hearing on 04.06.2021, the Additional Deputy Commissioner-cum-Convener had stated that the entire meeting had taken place, approximately, within 30 minutes. The Executive Officer and the proceeding recorder had specifically stated that the elected members had affixed their signatures on the oath letter. This fact has been stated by the petitioners that the oath was taken by all of them and the oath letter was signed by all the elected Members/Councillors. As per the recommendation of the Deputy Commissioner, notification of the election was issued on 12.05.2021. There is no provision in the Act for directing re-conduct of election. Only remedy available with the petitioners is to present “no confidence motion” against the President under Section 22 of the Punjab Municipal Act, 1911.

The CDs submitted by the petitioners were also watched by the Principal Secretary, Local Government, Punjab. Thereafter, a finding was given in the report that those CDs were from outside the meeting hall and no

footage or any proof with regard to the alleged incident inside the meeting hall has been shown in the CDs. There were 17 members of the house plus one area MLA, being *ex officio* member i.e. total 18, for Municipal Council, Jaiton. 11 members have filed the present petition. In the personal hearing, they alleged that they were in majority and should be considered for the post of President and Vice President. The Principal Secretary, Local Government, Punjab, in his order dated 07.06.2021, has observed that it was difficult to ascertain as to what had happened in the meeting hall in view of the reports of Deputy Commissioner, Faridkot, Additional Deputy Commissioner-cum-Convener of the meeting, the Executive Officer and the proceeding recorder of the Municipal Council, Jaiton as well as oral submissions of the Additional Deputy Commissioner during the hearing and in the absence of any footage or proof of what has happened inside the meeting hall.

Minutes of the meeting dated 07.05.2021 are placed on record as Annexure R-2/3. As per this document, all the members had put their signatures and the said meeting was presided over by Sh. Gurjit Singh, PCS, Convener-cum-Additional Deputy Commissioner, Faridkot. After signing the proceedings, they took oath and thereafter, names for the posts of President, Senior Vice President and Vice President were proposed. Details of the proposals given by elected members of the wards have been mentioned in the minutes of the meeting. In that regard, the Additional Deputy Commissioner sent a letter dated 21.05.2021 (Annexure R-2/2) to the Deputy Commissioner, Faridkot, wherein, details of the election have been given and reference has been made to Rule 4 of the Punjab Municipal (President & Vice President) Election Rules, 1994, as per which, voting for

the offices of President, Senior Vice President and Vice President, as the case may be, shall be by show of hands. The person presiding over the meeting, convened under Rule 3, shall keep a brief record in writing. In this backdrop, minutes of meeting were recorded in the Proceeding Book on 07.05.2021. Minutes of the meeting (Annexure R-2/3) shows that all the petitioners had put their signatures on the same.

During the pendency of this petition, petitioners have placed on record CDs (Annexures P-17 to P-24). These CDs were also produced by the petitioners at the time of personal hearing before the Principal Secretary, Local Government, Punjab. They have also placed on record translated copies of the proceedings of the meeting. These proceedings were never placed on record at the time of filing the writ petition. However, same proceedings have been placed on record by the respondents as Annexure R2/3.

We have perused the CDs. The CDs are showing the entry of the Municipal Councillors on 07.05.2021 in the meeting hall. The CDs further show the protest being made by the petitioners outside the office of Municipal Council. There is no recording with respect to the procedure, which was being followed during the meeting, which took place inside the office of Municipal Council. There is no footage or proof with regard to the alleged incident inside the meeting hall.

Learned counsel for the petitioners states that even though at the time of meeting, signatures of 17 elected members were taken, but the same were taken before giving the oath. After conducting the alleged election, signatures of the elected members ought to have been taken again.

This argument of learned counsel for the petitioners is liable to

be rejected, as the petitioners were given a prior notice dated 05.05.2021 (Annexure P-2) by the Convener-cum-Additional Deputy Commissioner, Faridkot, to attend the meeting on 07.05.2021. In this notice, the convener had informed the petitioners that the meeting was to be taken place on 07.05.2021 at 11.00 A.M., in the office of Municipal Council, Jaiton, in which, after taking oath by the newly elected Councillors of Municipal Council, Jaiton, the election of President and Vice President of Municipal Council would be conducted. Hence, the petitioners were fully aware about the agenda of the special meeting. They put their signatures on the minutes of the meeting, as is evident from Annexure R-2/3. After giving oath, they further proceeded to propose the names of President, Vice President and Senior Vice President. In this regard, Sh. Tulsi Ram, Municipal Councillor, Ward No.12, proposed the name of Sh. Surjeet Singh, Municipal Councillor, Ward No.6, for the post of President, which was seconded by Smt. Jaspal Kaur, Municipal Councillor, Ward No.5. Except this, no other name was proposed for the post of President. Hence, Sh. Surjeet Singh son of Gurbachan Singh was declared as President unopposed. In the same manner, for the post of Senior Vice President, Smt. Seema Rani, Municipal Councillor, Ward No.11, proposed the name of Smt. Suman Devi, Municipal Councillor, Ward No.13. This was seconded by Sh. Khushi Ram, Municipal Councillor, Ward No.16. No other name for this post was proposed and accordingly, Smt. Seema Rani was declared as Senior Vice President. Thereafter, Smt. Jaspal Kaur, Municipal Councillor, Ward No.5, proposed the name of Sh. Jatinder Kumar Bansal, Municipal Councillor, Ward No.10, for the post of Vice President, which was seconded by Sh. Surjit Singh, Municipal Councillor, Ward No.6. No other name was

proposed for this post. Accordingly, Sh. Jatinder Kumar Bansal was declared Vice President, Municipal Council, Jaiton, unopposed by raising hand. Proceedings recorded are placed on record as Annexure R-7/1 along with reply filed by respondent No.7/Additional Deputy Commissioner-cum-convener.

After going through the detailed speaking order dated 07.06.2021 (Annexure R-2/7), we are of the view that the entire proceedings have been conducted in accordance with Rules 3 and 4 of the Punjab Municipal (President and Vice-President) Election Rules, 1994, which read as under:-

***“Rule-3 Manner of election:-***

*(1) The Deputy Commissioner or any other officer authorised by him in this behalf (here-in-after referred to as the Convener) shall, within a period of [fourteen][11] days of the publication of the notification of the election of members of a newly constituted Municipality, fix, by giving not less than forty-eight hours notice to be served at the ordinary place of residence of all the elected members, a date for convening the first meeting of the elected members of such Municipality by stating in the notice that at such meeting, the oath of allegiance will be administered to the members present and also stating that the President and Vice-President or Vice-Presidents as the case may be shall be elected :*

*[Provided that all subsequent meetings to fill casual vacancies of the offices of President and Vice-President of Vice-Presidents as the case may be, shall be convened by the Convener.*

*(2) If due to any reason, the elected member is unable or refused to take oath of allegiance as required by sub-rule (1) within the stipulated period, then he will be allowed to take such oath of allegiance in the subsequent meeting unless he is debarred from taking the same by the Government for any reason. In case any such member does not take the oath of allegiance as aforesaid, then a fresh election to the constituency to which that member represents, shall be held,*

***Rule - 4. Voting by show of hands.--***

*(1) The voting for the offices of President, Senior Vice-President any Vice- President, as the case may be, shall be by show of hands.*

(2) *The person presiding over the meeting convened under rule 3, shall keep a brief record in writing.”*

Petitioners were given opportunity of personal hearing by the Principal Secretary-respondent No.2, who had gone through the CDs as well in compliance with the direction given by this Court on 19.05.2021. At the time of personal hearing on 24.05.2021, eight (08) petitioners appeared before the Principal Secretary-respondent No.2 along with their counsel Sh. Naresh Kumar, Advocate. The remaining petitioners were given personal hearing on 04.06.2021 before passing the order dated 07.06.2021 (Annexure R-2/7).

Since names of the aforesaid persons were proposed and seconded by the elected members of the Municipal Council, Jaiton, the entire proceedings have been conducted on 07.05.2021 (Annexure R-7/1) in accordance with the prescribed rules and regulations. We do not find any reason to interfere in the elections, which were conducted for the posts of President and Vice President, Municipal Council, Jaiton. In case the petitioners have any grievance against respondent Nos. 10 and 11, they can initiate proceedings by moving “no confidence motion” against them under Rule 22 of the Punjab Municipal Act, 1911.

Resultantly, finding no merits, present petition is dismissed.

(RITU BAHRI)  
JUDGE

(ARCHANA PURI)  
JUDGE

03.09.2021  
ajp