

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-11205-2021

Date of decision: 01.07.2021

Raghubir Singh

....Petitioner

V/s.

The State of Punjab and others

.....Respondents

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

Present: Mr. Avnish Mittal, Advocate for the petitioner.

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

Mr. Pankaj Jain, Senior Advocate, assisted by
Mr. Vivek Singla, Advocate for respondent No.5.

Ritu Bahri, J.

The petitioner is seeking direction for transferring the Election Petition dated 23.03.2021 (Annexure P-3) to any other competent court of jurisdiction.

Mr. Avneesh Mittal, learned counsel for the petitioner has argued that elections for Municipal Council, Mandi Gobindgarh, Amloh, District Fatehgarh Sahib were conducted on 14.02.2021 and as per the certificate dated 17.02.2021 (Annexure P-2), petitioner was elected from ward No. 29 of Municipal Council, Mandi Gobindgarh. Respondent No. 5—Harjinder Singh filed an Election Petition (Annexure P-3) before the Election Tribunal and during the pendency of Election Petition, he filed an application dated 04.05.2021 (Annexure P-5) to implead the Executive Officer, Municipal Council, Mandi Gobindgarh.

The grievance of learned counsel for the petitioner is that without issuing notice to the petitioner, impleadment application has been

allowed vide impugned order dated 04.05.2021 (Annexure P-6). He further argued that as per the notification dated 03.06.2019 (Annexure P-1), Sub Divisional Magistrates were appointed as Presiding Officers to conduct elections for Municipal Councils in the entire State of Punjab. In the present case, respondent No.1-Sub Divisional Magistrate was the Returning Officer of the elections in which the petitioner was declared as elected as per the certificate dated 17.02.2021 (Annexure P-2) issued by Returning Officer.

Heard learned counsel for the parties.

For the purpose of getting Election Petition transferred, the only ground taken by learned counsel for the petitioner is that the Presiding Officer cannot examine the election process which was conducted by him. In the present case, the Govt. of Punjab, Department of Elections, had issued notification dated 03.06.2019 (Annexure P-1) whereby all the Sub Divisional Magistrates were appointed as Presiding Officers for the elections of Municipal Councils, while exercising powers conferred by sub-section (2) of Section 73 of the Punjab State Election Commission Act, 1994 and because the Returning Officer himself had conducted the election, cannot be made a ground to transfer the Election Petition from his court to some other court.

With regard to the allegations as set out in the Election Petition, the respondents had to lead evidence to show that the present petitioner had concealed the material facts while filing his nomination papers. Respondent No.1-Presiding Officer has to examine the evidence led by both the parties and since the notification dated 03.06.2019 (Annexure P-1) is not the subject matter of challenge, appointment of respondent No. 1 as

Presiding Officer is not liable to be interfered by this Court, writ petition is dismissed accordingly. Further, there are no malafides attributed to respondent No. 1 in the Election Petition.

(RITU BAHRI)
JUDGE

01.07.2021
Divyanshi

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No