

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

CWP-36-2021

Date of Decision:06.01.2021

Tejinder Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present: Mr.Rahul Jain, Advocate,
for the petitioner.

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.]

SANT PARKASH, J.

The present writ petition is directed against the order dated 17.12.2020 (P-1), whereby the nomination of the petitioner for the election as Member of Municipal Corporation, Ambala was rejected.

Brief facts of the case are that the petitioner filed his nomination paper on 16.12.2020 to the Returning Officer, Ambala City for the election of member of the Municipal Corporation, Ambala from Ward No.19 along with the requisite documents and formalities as per the instructions issued by the Election Commission, which was duly checked and verified by the SDM/Returning Officer at the time of submission of paper. The petitioner was called on 17.12.2020 at 11.00 AM and informed by the office of the Returning Officer that his nomination papers were not in order as Form No.1 was not duly attested by the authority as required. Then

he approached the Returning Officer but he gave no response. In such an eventuality, he had no option but to raise alarm by way of peaceful protest/dharna which continued till 01.00 AM on 18th December, 2020. Resultantly, a meeting was scheduled with the District Electoral Officer i.e. Deputy Commissioner and Shri J.Ganeshan, who happened to be the Observer of the election. However, in the said meeting, the petitioner was not allowed to represent his case. On the same day, i.e. 18.12.2020 at 03.00 PM, the result of the meeting was announced that the nomination of the petitioner was liable to be rejected. Thereafter, a representation dated 18.12.2020 (P-2) was also submitted by the President of Haryana Pradesh Congress Committee before the Election Commission, Chandigarh to remove the objections but the Commission did not respond.

Learned counsel for the petitioner submits that the impugned rejection order dated 17.12.2020 (P-1) is liable to be quashed being arbitrary, unconstitutional, illegal, perverse and violative of all canons of law. He further submits that the omission of attestation from an Executive Magistrate is nothing but a bonafide mistake, which cannot be said to be a valid ground for rejection of the candidature to contest the election. He further submitted that despite raising protest and meeting with the higher officers, the grievance of the petitioner was not redressed resulting into miscarriage of justice and denying a lawful opportunity to contest the election.

This Court has heard the learned counsel for the petitioner and perused the case file.

From perusal of the impugned order/rejection Form (P-1), it is

evidently clear that it should have been verified by the Magistrate and carried the signature of the Verifying Officer with full designation. It would make it further evident that the said form has neither been verified nor signed by the verifying Authority/Magistrate. It was the pre-requisite condition of filing the nomination that it should have been verified by the concerned authority and there appears no reason as to why the Returning Officer should have given an opportunity to the present petitioner to get it verified at a later stage. A person, who is going to contest the election of Municipal Corporation, should have been wise and vigilant enough to fill up the form completely so as to avoid any rejection at the later stage. No cogent and plausible reason has been assigned to this Court as to what prevented the petitioner from getting it verified from the competent authority.

From the perusal of the receipt for nomination paper (at page 20A), it is further clear that the nomination paper of the candidates for the election to the Member from Ward No.19 of Municipal Corporation, Ambala was delivered to the Assistant Returning Officer at his office at 11.02 (hours) on 16.12.2020 and all the nomination papers were scrutinized at 11.30 AM on 17.12.2020 at his office, indicating that before raising alarm as claimed by the petitioner, his candidature had already been rejected. There was no rule of thumb that he should have been given an opportunity of being heard before the said rejection.

Moreover, in our opinion, this writ petition has become infructuous on account of the fact that the election has already taken place on 27.12.2020 and results stood declared on 30.12.2020.

In view of the above, the present writ petition is dismissed on merits as well as having been rendered infructuous.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

06.01.2021

mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO