

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-5631-2022

Reserved on: 28.10.2022

Pronounced on: 16.11.2022

Satish Kumar Saini

....Petitioner

V/s.

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: Mr. Sumid Saddi, Advocate for the petitioner.

Ms. Anu Pal, Sr. DAG, Punjab.

Ritu Bahri, J.

The petitioner is praying for issuance of a writ of mandamus and Quo Warranto and certiorari for declaring the elections results declared on 18.02.2021 by the respondents alongwith respective polls held on 14.02.2021 for electing Municipal Councillors to all 50 Wards of Municipal Corporation, Mohali as illegal and void and further directing Punjab State Election Commission/Respondent No.2 to hold fresh elections to the Municipal Corporation, Mohali with mandatory usage of VVPAT system with EVMs and under strict compliance to statutory rules and provisions mandated under the Punjab Municipal Election Commission Act, 1994. It is further prayed that the operation of final results declared on 18.02.2021 by Punjab State Election Commission to all 50-Municipal Wards of Mohali with all consequential proceedings thereof by stayed.

In the present case, the final result was declared on 18.02.2021 by the Punjab State Election Commission to all 50-Municipal Wards of Mohali. The short question for consideration in the present petition is that

whether the petitioner who is a voter, what remedy he has to challenge the above said elections. This aspect has already been considered by 5-Judge Bench of this Court in **CWP-3575-2003** titled as ***Prithvi Raj vs. State Election Commission, Punjab and others*** after referring Full Bench judgment passed in ***Lal Chand vs. State of Haryana 1998 (1) PLJ 577*** and ***Mohinder Singh Gill and another vs. The Chief Election Commissioner, New Delhi and others AIR 1978 SC 851***, the Court has held that a High Court cannot entertain a writ petition calling into question an “election” and it is only the Election Tribunal can adjudicate the election matters by way of election petition. The power of a High Court under Article 226 of the Constitution of India would, however, be available, where exercise of the said power subserves the progress of the election, facilitates its completion and is exercised to further the election process.

Thereafter, a Division Bench of this Court in the case of ***Baldev Raj vs. State of Punjab and others 2008(2) SCC Online 355*** was examining writ petitions challenging de-limitation of Municipal wards, fixing number of elected members in the Municipal Council/Corporation, reservation for various reserved categories and allocation of wards to reserved categories when the election schedule had already notified and process of nomination had commenced. The writ petitions were dismissed by making reference to ***Prithvi Raj's case (supra)***. It was further observed that under Article 243 ZG, there is a bar to interference by Courts in electoral matters and further the individual rights cannot have precedence over the larger public interest of holding elections. The elections have to be challenged before State Election Commission which is the sole agency to examine the election process.

No ground to quash the election result declared on 18.02.2021
is made out.

Writ petition is dismissed.

(RITU BAHRI)
JUDGE

16.11.2022
Divyanshi

(NIDHI GUPTA)
JUDGE

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