

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

CWP-PIL-62-2022

Date of decision: 04.07.2022

Sharanpal Sachdeva

... Petitioner

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. Jagmohan Singh Bhatti, Advocate, for the petitioner.
Mr. Deepak Balyan, Additional Advocate General, Haryana.

RAVI SHANKER JHA, C.J.(Oral)

The petitioner purports to have approached this Court in Public Interest. The grievance of the petitioner is that a video clip was widely circulated on a social media, which reveals that at an event held by a Social Organization, Mr. Aseem Goel (respondent No.5) sitting BJP MLA (Ambala City) of Haryana Vidhan Sabha, was seen taking a pledge to make India a 'Hindu Rashtra'.

A mandamus is prayed for to command respondents No.1 to 4 to initiate action on the representation (P-1) submitted by the petitioner, for immediate removal and disqualification of respondent No.5 as MLA of the Present Vidhan Sabha, Haryana, under Article 102 read with Articles 190 & 191 of the Constitution of India.

Ex facie, a reference to and the reliance placed upon the constitutional provisions, referred to above, to initiate disqualification process against respondent No.5 is wholly misplaced. Article 102 of the Constitution postulates that a person shall be disqualified for being chosen as, and for being, a member of either **House of Parliament** in any of the

eventualities envisaged under clause (a) to (e) of the said provision. Whereas, Article 190(1) requires that no person shall be a member of both Houses of Legislature of a State and provision shall be made by the Legislature of the State by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other. Likewise, in terms of clause (2) of Article 190, no person shall be a member of the Legislatures of two or more States specified in the First Schedule. And, under clause (3) of Article 190, if a member of a House of the Legislature of a State incurs any disqualification mentioned in clause (1) or clause (2) of article 191 or resigns his seat shall thereupon become vacant. And, Article 191(1) envisages that a person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State in any of the eventualities specified under sub-clause (a) to (e).

Thus, as indicated above, the alleged incident and the grounds upon which disqualification of respondent No.5 is being sought do not even remotely attract the aforesaid provisions of the Constitution. It would be apposite to point out further that in the index of the petition, the petitioner has referred to a few decisions rendered by this Court as also the Supreme Court:

“4. 2016(4) PLR Page 110 (DB) and 2018(1) PLR Page 29 (DB) wherein the point in controversy stands considered and appointments of CPS quashed. CWP No.1620 of 2017; CWP No.9914/2018 and 12067 of 2018 pending.

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8. It is PIL seeking quo warranto against the appointment of respondent No.8 to 11 and in the light of judgment of the Hon’ble Supreme Court as delivered in Hari Bansh Lal Versus Sahodar Parsad

Mahto and Others (2010) 9 SCC 655 is maintainable as such in the present form; Refer also (2013) 3 SCC 99 M Manohar Reddy and another Versus Union of India and others; Rajesh Awasthi Versus Nand Lal Jaiswal and Others (2013) 1 SCC 501; Central Electricity Supply Utility of Odisha Vs Dhobei Sahoo and others (2014) 1 SCC 161.”

However, on examining the aforesaid decisions, we find that none of those has even a remote relevance with the grievance sought to be raised in the present petition. That being so, we are dissuaded to delve any further and examine if the petition even meets the requirement of maintainability of Public Interest Litigation Rules framed by this Court.

Accordingly, the petition is disposed of with liberty to the petitioner to avail such other remedies as shall be admissible in law, if so advised.

Needless to assert, for we have not examined the matter on merits, this order shall not constitute any expression of opinion on any proceedings, if at all, pending or otherwise.

**(Ravi Shanker Jha)
Chief Justice**

**(Arun Palli)
Judge**

04.07.2022
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO