

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

CWP No.20260 of 2019 (O&M)

Date of Decision: April 27, 2022

Harmilap Singh Grewal

.....Petitioner.

Versus

Election Commission of India and others

.....Respondents.

**CORAM: *HON'BLE MS. JUSTICE RITU BAHRI*
*HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA***

Present:- Mr. Judgepreet Singh Warring, Advocate
for the petitioner.

Mr. Namit Kumar, Advocate
for respondent No.1.

Ms. Anu Pal, DAG, Punjab.

RITU BAHRI, J. (Oral)

The petitioner is seeking a writ of mandamus directing the official respondents No.1 to 4 to cancel the Vote Enrolment present at Serial No.744 in Part No.147 of respondent No.5 in 094 Constituency Talwandi Sabo Voter List as well as the membership of respondent No.5 as a Member of Legislative Assembly, which is based on said vote being false documents as the same was prepared after impersonation made by respondent No.5 by concealing true and material facts from the competent authorities with a further direction to the official respondents to decide the complaint/representation dated 14.11.2017 (Annexure P-1) filed by the petitioner in a time bound manner.

As per the writ petition, the petitioner in the present case is permanent resident of District Bathinda and is an R.T.I. activist. After the

Legislative Assembly Elections conducted in Punjab on 04.02.2017, the petitioner had raised an objection to the candidature of respondent No.5. It is further stated that Sh. Darshan Singh son of Sh. Bhag Singh resident of Jaga Ram Tirath, Tehsil Talwandi Sabo, District Bathinda is the natural father of respondent No.5-Baljinder Kaur as she was born on 14.09.1985 out of the wedlock of said Darshan Singh and Smt. Ranjit Kaur. Thereafter, respondent No.5 was adopted by Sh. Amarjit Singh son of Sh. Sohan Singh resident of Jaga Ram Tirath, Tehsil Talwandi Sabo, District Bathinda vide Adoption Deed dated 21.04.1997.

Respondent No.5 had a valid vote in which she had shown herself as Baljinder Kaur daughter of Amarjit Singh. After the death of Amarjit Singh, respondent No.5 filed a civil suit for declaration in respect of all the assets including immovable/movable properties to the effect that she is owner and legal heir of deceased Amarjit Singh. In that suit, a counter-claim was filed by defendant No.2 but later-on, respondent No.5 had withdrawn her claim qua the assets of deceased Amarjit Singh as she was aware of the Will in favour of the defendant in that suit and she made a separate statement to this effect before the Lok Adalat.

Thereafter, respondent No.5 applied for subsequent vote by showing Darshan Singh to be her father and got procured double voter card bearing No.WCY0291039 and the same is now registered as Vote Enrolment present at Serial No.744 in Part No.147 in 094 Constituency Talwandi Sabo Voter List. On the basis of subsequent vote, she contested the elections of Talwandi Sabo in the year 2014. An objection was raised

with respect to the abovesaid fact by one contesting candidate Balkar Sidhu. Later-on, the valid vote of respondent No.5 i.e. “Baljinder Kaur daughter of Amarjit Singh” has been deleted in the year 2015 and she regularly started using her subsequent vote i.e. “Baljinder Kaur daughter of Darshan Singh”, which is not a valid vote.

Subsequently, a complaint/representation dated 14.11.2017 (Annexure P-1) was made by the petitioner for initiating complete/comprehensive investigation and enquiry into the aspect of concealing her true identity and giving wrong information to Election Commission in 2017. As per the report dated 08.02.2018 (Annexure P-2), it was found that there were two votes of respondent No.5 and this report was sent to the District Election Officer, Bathinda.

Learned counsel for respondent No.1 has produced the copy of letter dated 17.12.2019 addressed to Chief Electoral Officer, Punjab, Chandigarh whereby the Election Commission of India has taken a decision that in the present case there was enrollment at more than one polling station between 2011 to 2015 and as per the judgment passed by this Court in “Rajesh Joshi Versus State through the Electoral Registration Officer”, it was observed that the complaint filed being much beyond the period of limitation of one year, be quashed and the Commission also did not find any merit to pursue the case.

In ***Rajesh Joshi Versus State through the Electoral Registration Officer 2016(2) RCR (Civil) 847***, it has been observed that making false declaration for registration as a voter is an offence under

Section 31 of the Representation of People Act but the period of limitation to file a complaint is one year as envisaged under Section 468 of the Code of Criminal Procedure.

In the present case, the plea of the petitioner is that respondent No.5 had contested the elections on 04.02.2017 for the post of Member of Legislative Assembly for the Constituency of Talwandi Sabo, District Bathinda by wrongly showing herself to be the daughter of Darshan Singh. Even if this fact is taken to be correct, the present petition which has been filed beyond the period of limitation of one year on 27.05.2019, cannot be entertained in the light of the observations made by this Court in ***Rajesh Joshi's case (supra)***.

The present petition is, accordingly, dismissed.

(RITU BAHRI)
JUDGE

April 27, 2022
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*