

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

109

CWP-25867-2021

Date of decision:06.01.2022

PARAMJIT KAUR AND ORS.

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. H.S.Aujla, Advocate
for the petitioners.**

Mr. Nikhil Chopra, Addl.A.G., Punjab

ANIL KSHETARPAL, J (Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

The petitioners pray for issuance of a writ in the nature of mandamus directing respondent no.4 not to interfere in the working of the Gram Panchayat Jitwal Kalan, Block Amargarh, District Malerkotla and permit the Sarpanch to cast his vote twice over.

It is not in dispute that the elected representatives of the Gram Panchayat consist of 9 Panches and a Sarpanch. They are alleged to be equally divided in two difference rival groups. The petitioners, on the strength of Section 24(3) of the Punjab Panchayati Raj Act, 1994, contends that in the meeting of the Gram Panchayat, an elected Sarpanch is entitled to cast his vote twice over. In other words, it is claimed that in case the elected members are equally divided, the Sarpanch after having cast his vote in the first round, is entitled to again cast his vote. Section 24 of the Punjab

Panchayati Raj Act, 1994 is extracted as under:-

24. Quorums and Procedure.

(1) The majority of Panches for the time being holding office shall form a quorum and if at the time appointed for the meeting, a quorum is not present -

(a) the presiding authority shall wait for thirty minutes, and if within such period there is no quorum, the presiding authority shall adjourn the meeting to such time on the following day or such future day as he may fix;

(b) similarly, the presiding authority after waiting for thirty minutes adjourn the meeting if, at any time, after it has begun attention is drawn to the want of a quorum and the business which could not be considered at the meeting postponed under clause (a) for want of quorum, shall be brought before and disposed of at the meeting so fixed or at any subsequent adjourned meeting at which there is a quorum.

(2) Save as otherwise provided by or under this Act, at every meeting of the Gram Panchayat, the Sarpanch and in his absence a Panch elected out of the Panches present shall preside for the occasion.

(3) All questions shall, unless otherwise specifically provided, be decided by a majority of votes of the present and voting and the Sarpanch or Panch presiding, as the case may be, unless he refrains from voting, shall give his vote before declaring the number of votes for and against a question and In the case of equality of votes, he may give his casting vote.

(4) No member of a Gram Panchayat shall vote on, or take part in the discussion of any question coming up for consideration at a meeting of a Gram Panchayat, if the question is one in which apart from its general application to the public, he has any pecuniary interest, and if the person presiding has such an interest, he shall not preside over the meeting when such question comes up for consideration.

(5) If the person presiding is believed by any member present at the meeting to have any such pecuniary interest in any matter under discussion, and if a motion to that be carried, he shall not preside at the meeting during such discussion or vote on or take part in it and in such a case any member other than

that member of the Gram Panchayat may be chosen to preside at the meeting during the continuance of such discussion.”

On a careful reading of Section 24(3) of the Punjab Panchayati Raj Act, 1994, extracted above, it is evident that the legislature has nowhere specifically provided that the Sarpanch of the Gram Panchayat will be entitled to vote in the meeting of the Gram Panchayat twice over. The Sarpanch of the Gram Panchayat is the Presiding Authority in the meeting of the Gram Panchayat. If the Presiding Authority finds that the remaining members are equally divided, he can give his casting vote. However, in the absence of any specific provision, there is no occasion to hold that the Sarpanch is entitled to vote in a particular meeting more than once.

In view thereof, no ground to issue the writ as prayed for, is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

January 06, 2022
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No