

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-231-2020

Date of Decision: 21.10.2022

Baljinder Singh Hundal**....Petitioner****VS****State of Punjab and others****....Respondents****CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present: Mr. Sanjay Majithia, Sr. Advocate with
Mr. Vinay Gaur, Advocate
for the petitioner

Mr. Gurvinder Singh, AAG Punjab

Mr. P.S. Hundal, Advocate
for respondent No. 5

SUDHIR MITTAL, J. (Oral)

Sealed cover has been opened in the Court and the nomination form filled by respondent No. 5 has been perused. Declaration annexed as Annexure-1 with the nomination form requires the candidate to reveal whether he has been convicted by any Court of law, however, the column meant for the said information has been left blank.

The nomination form alongwith connected documents is returned to learned State counsel for forward transmission to the concerned quarter.

Learned senior counsel for the petitioner submits that respondent No. 5 is a practising Advocate. He was convicted of an offence under the Punjab Land Preservation Act, 1900 vide order dated 25.04.2012 passed by the Court of Sub Divisional Judicial Magistrate, Dasuya. Sentence of payment of fine of Rs. 100 was imposed. This fact has not been mentioned in the declaration submitted alongwith the nomination form and, thus, respondent No. 5 is liable to

be removed from the post of Sarpanch.

Learned counsel for respondent No. 5 submits that Section 20(1)(a) of the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act') provides for removal of a Sarpanch on any of the grounds mentioned in Section 208 of the Act. Section 208(1)(c) of the Act provides for disqualification from being a member of the panchayat if the candidate has been convicted of offence involving moral turpitude provided a period of five years has not elapsed since his conviction. In the instant case, the conviction was on 25.04.2012 whereas the nomination form was filed on 15.12.2018. Election was held on 30.12.2018. It is, thus, evident that a period of more than six years had elapsed since the date of conviction and, thus, there was no requirement in law of revealing the factum of conviction. Even if the information had been revealed it would have made no material difference.

Irrespective of the fact whether the information regarding conviction would have made any material difference or not, respondent No. 5 was duty bound to have revealed the information as required by the declaration form. The same was the requirement of prudence as well as complete disclosure by a candidate contesting for a public office. However, respondent No. 5 can not be removed from his office because the said action is governed by the statute and the statute does not provide for any penalty for failure to reveal an act which normal prudence required to be revealed. Thus, no further action is liable to be taken against respondent No. 5.

With the aforementioned observations the writ petition is dismissed.

21.10.2022

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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned

Whether Reportable :

Yes/No

Yes/No