

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-26837-2022
Date of Decision: 12.05.2023

ASHRAF

..... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. Sarfraj Hussain, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, DAG, Haryana.

Mr. Akshay Jindal, Advocate
for respondent no.7.

LISA GILL, J.

1. Prayer in this writ petition is for setting aside election of respondent no.7 to the post of Sarpanch, Gram Panchayat village Ghasera on the ground of casting of bogus votes after booth capturing on 02.11.2022. Petitioner is the unsuccessful candidate in the above said election.

2. It is stated that petitioner and other two contestants were attacked by respondent no.7 (who has not even been made party by name). It is further submitted that booths were captured by respondent no.7 & his supporters and bogus votes were cast. Photographs and videos of the incident in question, it was contended, would reflect the same. No action was taken by the authorities despite submission of representations and complaints by the petitioner on 02.11.2022 itself.

3. We have heard learned counsel for the parties and have gone through the file with their able assistance.

4. It is not denied by learned counsel for the petitioner that election petition challenging the election of winning candidate already stands filed by the petitioner taking all the grounds as are available to him and as are raised in the present writ petition. Though, learned counsel for the petitioner has argued that keeping in view the videography and the photographs, this Court should interfere at the very outset, however, keeping in view the settled position of law as is reflected in the judgments of Hon'ble Supreme Court in *N.M. Ponnuswami Vs. Returning Officer, Namakkal Constituency and others*, 1952 AIR 64, *Mohinder Singh Gill and another vs. The Chief Election Commissioner, New Delhi and others*, 1978(1) SCC 405, *Election Commission of India Vs. Ashok Kumar and others*, 2000 AIR (Supreme Court) 2979 and *Laxmibai Vs. Collector, Nanded and others*, 2020 AIR (SC) 3393 as well as the full Bench judgment of this Court in *Prithviraj Vs. Election Commission of India*, 2007(3) RCR (Civil) 817 besides decision dated 11.04.2023 of this Court in *Surender Kumar Vs. The State Election Commission, Haryana and others* CWP-26255-2022, we do not find any ground whatsoever to interfere in this matter in exercise of jurisdiction under Article 226 of the Constitution of India. All the reliefs as claimed are clearly within the purview of the Election Tribunal as has been succinctly explained by the Hon'ble Supreme Court in *Mohinder Singh Gill's* case (supra). Needless to say, petitioner is at liberty to take up all available pleas before the appropriate forum, in accordance with law.

5. This writ petition is accordingly disposed of.
6. It is clarified that there is no expression of opinion on the merits of the matter.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

12.05.2023

Sunil

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