

2024:PHHC:058725
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

267

**CWP-8240-2024
Date of Decision:29.04.2024**

**A.S. High School, Khanna Trust & Management Society, Khanna,
District Ludhiana ..Petitioner**

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. D.V. Sharma, Sr. Advocate with
Mr. Gaurav Dutta, Advocate and
Ms. Shivani Sharma, Advocate
for the petitioner.

Mr. Vipin Pal Yadav, Addl. A.G., Punjab and
Mr. Gagneshwar Walia, Addl. A.G., Punjab
assisted by SDM, Khanna.

Mr. Rahul Sharma, Advocate
for respondent No.5.

VINOD S. BHARDWAJ, J.(ORAL)

Challenge in the present writ petition is to the order dated 05.04.2024 (Annexure P-13) passed by respondent No.4-Sub Divisional Magistrate, Khanna, District Ludhiana and consequential order dated 06.04.2024 (Annexure P-14) passed by respondent No.5-Chief Election Officer, Officiating Principal A.S. College, Samrala Road, Khanna, vide which the election to the petitioner's society has been directed to be postponed and put under suspended animation.

2. Learned counsel appearing on behalf of petitioner contends that the petitioner society runs a number of institution/schools in Khanna and that the election to the governing body of the Committee was to be held for which notice had been issued on 27.01.2024. The schedule for election was notified is as under:-

-2-

“ Notice

This is for the information to all the members of the society that General Election of Managing Committee of A.S. High School, Khanna Trust & Management Society for Managing Committee (20 members) will be held on 31.03.2024 in AS Sr. Senior Secondary School, Khanna as per the schedule given below:-

- 1. Identity Cards to New Voters. Life Members & Ordinary Members who became Permanent Members, during the years 2019 to 2023. Identity Cards will be issued daily from 10.00 am to 5.00 pm from 18.03.2024 to 25.03.2024 in the office of the Principal, As Sr. Sec. School, Khanna. Members interested in getting the Identity Cards issued should contact the Principal, A. S. Sr. Sec. Khanna. No Identity Cards/Duplicate Identity Cards will be issued to any Voter under any circumstances after 25.03.2024. The members who might have lost their Identity Cards, they can get their duplicate Identity Cards on the payment of Rs.100/- from 10.00 am to 5.00 pm from 18.03.2024 to 25.03.2024 in the office of the Principal, A.S. Sr. Sec. School, Khanna.*
- 2. Principal AS College , Khanna will work as Chief Election Officer, Principal A.S. College for women, Khanna, Principal AS College of Education, Khanna, Director, A.S. Group of Institutions. Khanna, Principal A.S. Sr. Sec. School, Khanna, Principal A.S. Modern Sr. Sec. School, Khanna and Principal M. G.C. A.S. High School, Khanna will work as Election Officers. Office of the Principal A.S. Sr. Sec. School, Khanna will function as Election Office (Telephone Nos. 01628-229716, 228316).*
- 3. Nomination papers shall be accepted by the Chief Election Officer w.e.f. 08.03.2024 to 13.03.2024 between 3.00 pm. To 5.00 pm. daily (Sunday and Holidays are*

open).

For eligibility conditions attention of the member is invited to clause 8(i) of the Constitution of the Society which reads as under:-

“The following members of the society shall be eligible for election to the Managing Committee:-

(i) Those persons who have paid Rs.1000/- or more in one installment or are duly nominated representative of families or firms that have contributed or contribute Rs.1000/- to the funds of the Society subject to the provision that they have been members of the society for at least two consecutive years preceding the election years.”

Note: It has been decided that this contribution must have been made by 07.03.2024 between 3.00 pm to 5.00 pm daily (Sunday and Holidays are open).

4. Every nomination will be proposed by five members and seconded by one members of the Society and consented to by the candidate on the prescribed proforma available with the election office. A nomination fee (refundable) of Rs.17700/- (15000+18%GST) must be paid in cash/cheque against proper receipt to the Chief Election Officer. Candidates will be given one copy of voter list and one CD containing list of voters free of cost. However, for any additional copy of voter list Rs.200/- will be charged and for any additional CD Rs.50/- will be charged.

5. List of nomination received by the due date will be displayed on a notice board in front of the Election 14.03.2024 at 10.00 a.m.

6. Objections, if any, to the nomination can be filed with the Chief Election Officer on 15.03.2024 between 03.00 pm. To 5.00 pm.

7. The nomination will be scrutinized on 16.03.2024 between 03.00 pm to 05.00 pm and the scrutinized list of

-4-

the valid nominations will be displayed in front of the Election office on 16.03.2024 at 05.30 pm.

8. Nominations may be withdrawn on a prescribed performa by 18.03.2024 up to 05.00 p.m.

A Withdrawing candidate can claim refund of nomination fee within a week.

9. Final list of candidates will be displayed in front of the election office on 18.03.2024 at 05.30 p.m.

10. Polling, if necessary, will take place in A.S. Sr. Sr. Sec. School, Khanna on 31.03.2024 from 08.00 a.m. to 1.30 p.m. and 02.00 p.m. to 05.00 p.m.

11. Counting of votes will be undertaken on 01.04.2024 from 08.00 a.m. onwards in A.S. Sr. Sec. School, Khanna. The counting process will continue till the results are finally declared by the Chief Election Officer who will notify the final result there and then after the counting is over.

12. Chief Election Officer will issue detailed instructions to the voters/candidates from time to time in the interest of smooth conduct of election.

13. In case of any doubt dispute etc. regarding any matter related with elections, decision of the Chief Election Officer shall be final and binding in all.

Sd/- Shamender Singh Sd/ Barinder Dewett, Advocate
Chairman General Secretary”

3. It is submitted that the Sub Divisional Magistrate, Khanna had directed the petitioner society to postpone the election on account of the notification of the Lok Sabha Elections. Aggrieved of such a direction, the petitioner approached this Court by way of a writ petition. At that stage, learned counsel appearing on behalf of the State, made a statement that the Sub Divisional Magistrate had only issued an advisory and that the State would have no objection, in case, the elections to the Executive Committee

of the Trust are held by it making its own security arrangements. The writ petition bearing CWP-6769-2024 was accordingly disposed of vide order dated 20.03.2024 with liberty to the petitioners to take appropriate steps to conduct the elections by making its own security arrangements.

4. He submits that subsequently vide order dated 5.4.2024, Sub Divisional Magistrate, Khanna ordered that the election be postponed as there is a possibility of breach of peace and that the administration is not in a situation to deploy the police personnel for the same. The same compelled the petitioner to approach this Court yet again by way of the instant writ petition.

5. At the time of issuance of notice of motion, the following order was passed on 15.04.2024:-

“Learned Senior Counsel appearing on behalf of the petitioner inter alia contends that the petitioner initially approached this Court by way of CWP-6769-2024 which was filed against the communication dated 12.03.2024 sent by the Sub Divisional Magistrate, Khanna whereby the petitioner was advised to post-pone the election of the Society as security arrangement could not be made due to the up coming election of the Lok Sabha. The above said Civil Writ Petition was disposed of vide order dated 20.03.2024, after recording the statement of the respondent-State, that there was no order directing postponement of the election and that the State would not object in case the election is conducted by the Society after making its own security arrangement. An intimation was thereafter sent by the petitioner-Society on 01.04.2024 to the Sub Divisional Magistrate, Khanna that election is being re-scheduled and that there are approximately 5763 members likely to cast their votes and a request for deployment of 20 Police officials was made. The Sub

-6-

Divisional Magistrate vide its letter No. 1175 dated 05.04.2024 conveyed that a report had been sought from the office of Deputy Superintendent of Police, Khanna for conducting the election of the Society which was scheduled to be held on 21.04.2024 and it was reported that earlier also dispute/disturbance was caused during election of the petitioner-Society against which F.I.R. No. 26 of 2014 was registered under Sections 307/302/148/149/120-B of IPC (Section 109 of the IPC was added later on) and Section 25, 24, 59 of the Arms Act at Police Station Khanna and during the forthcoming election there might again be chance of disputes/disruptions. It was also reported that the candidates who would contest the election are likely to create disturbance and that some police force would be required. It was thus conveyed that in view of the said report the complete process of election be post-pone and the same may be conducted after the General Elections of 2024. He submits that while the respondent-State had at the first instance raised 'No Objection' to the election being held by the Society by making its own arrangement leading to CWP6769-2024 being disposed of vide order dated 20.03.2024. However, now the respondent-State had directed that there is an apprehension of breach of peace and that a force deployment of more than 20 police personnels would be required which cannot be spared at this juncture. He contends that the plea of lack of police personnels for deployment is misplaced since the respondent-State had agreed for deployment of the Police force during the ongoing IPL matches and on the other hand is claiming lack of man power on the request of the petitioner Society. He submits that

-7-

petitioner Society shall have no objection to pay the proportionate cost as per the applicable policy for the deployment of the Police Force on the date of election. It is alleged by him that the election of the Society are being deferred at the instance of local member of legislative assembly.

Notice of motion.

Mr. Vipin Pal Yadav, Addl. A.G. Punjab accepts notice on behalf of respondents No.1 to 4 and objects that the allegation as regard the interference of the Local MLA is misplaced. He submits that the petitioner has neither named any such MLA nor any such MLA is made party in the present writ petition. He further prays for some time to seek instructions and to file reply.

Adjourned to 26.04.2024.

Notice to remaining respondent i.e. respondent No.5 be issued for the date fixed.

Taking into consideration the aspects noticed above, the Sub Divisional Magistrate, Khanna shall remain present in person on the next date of hearing.”

6. In compliance thereto, Sub Divisional Magistrate, Khanna appeared before this Court on 26.04.2024 and sought time to complete the instructions. The matter was adjourned for today and is taken up for resumed hearing.

7. Learned counsel for the respondents-State contends that the circumstances relating to IPL match and election of the petitioner society are inequitable and cannot be brought on same pedestal. The security arrangements are required to be made for IPL matches, which is visited by more than 30,000 crowd as well as International Players. He further contends that the petitioner society itself revised the election schedule on

two occasions and that if the remnant of the election schedule is to be implemented as it is, the same would take the election in the midst of the Parliamentary elections that are to be held in the State of Punjab and voting for which is on 01.06.2024.

8. Counsel for the petitioner contends that under the given scenario, they will submit a revised schedule to the respondents-State of Punjab for conduct of election, from the stage where it had been kept in abeyance, and that the respondent-State be directed to make appropriate and adequate security arrangements as per the revised schedule.

9. Sub Divisional Magistrate, Khanna who is present in the court, has no objection to the same and states that appropriate security arrangements shall be made to ensure that the election is held peacefully on the revised schedule, as submitted by the petitioner society for holding of the election, after polling and counting are over in the State of Punjab.

10. In view of the aforesaid statement made by Sub Divisional Magistrate, Khanna, learned counsel for the petitioner does not press the instant writ petition any further, at this stage. However, it is directed that the petitioner society shall notify the revised polling schedule to the respondent-authority by 1st week of June, 2024 and the requisite security arrangement shall be ensured by the State of Punjab to avoid in breach of law and order.

11. Disposed of as not pressed at this stage with direction as above.

(VINOD S. BHARDWAJ)
JUDGE

29.04.2024
dinesh

1. Whether speaking/reasoned?	Yes
2. Whether reportable?	Yes/No