

2024:PHHC:004560

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

EP-2-2017 (O&M)

Date of decision: 12.01.2024

Davinder Kumar Sandhu

....Petitioner

Versus

Gurpratap Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. M.S.Sachdev, Advocate for the petitioner

Mr. Vikas Singh and

Mr. A.S.Pannu and

Ms. Anamika Sheoran, Advocates for the respondent

ANIL KSHETARPAL, J (Oral)

1. Admittedly, the term of the Punjab Legislative Assembly came to an end in February, 2023. Thereafter, the fresh elections were conducted and a new house has been constituted and the petitioner was also not successful in the elections held in February, 2023.

2. In the present election petition, the election of the respondent-Gurpratap Singh held in March, 2017 was challenged. The case is still at the stage of decision on an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 filed by the petitioner. Learned counsel representing the respondent submits

that the present election petition has become infructuous in view of the fact that the tenure of the Legislative Assembly has come to an end.

3. On the other hand, the learned counsel representing the petitioner submits that such matter does not become infructuous merely because the term of elected members is over. He relies upon the following judgments:-

i) **Ajit Prasad Narayan Singh vs. Smt. Nandini Satpathy 1975 AIR (Orissa) 184**

ii) **Smt Anita vs. Election Tribunal/Addl. District Judge Court no.2 Muzaffarnagar and another RCR (Civil) 324.**

4. On the other hand, the learned counsel representing the respondent has brought to the notice of the Court two different orders passed by the Supreme Court in **Kashi Nath Mishra vs. Vikramaditya Pandey and others 1998(8) SCC 735** and **Mundrika Singh Yadav vs. Shiv Bachan Yadav and others 2005 (12) SCC 211.**

5. On a careful reading of the orders passed by the Supreme Court, it is evident that the court dismissed the petitions or the appeal on the ground that the terms of Legislative Assembly is over. The judgment passed by the Supreme Court is binding. Hence, the present petition is dismissed as having been rendered infructuous.

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

12.01.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE