

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:118142-DB



(128 & 131) LPA No.2153 of 2024(O&M)
Malkiat SinghAppellant (s)

Versus

State of Punjab and othersRespondent(s)

(2) LPA No.2166 of 2024(O&M)
Parminder SinghAppellant (s)

Versus

State of Punjab and othersRespondent(s)

Decided on : 09.09.2024

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. D.V. Sharma, Senior Advocate
with Ms. Sunder Kumari, Advocate for the appellants.

Ms. Arundhati Kulshreshta, AAG, Punjab.

Mr. Ashwani Prashar, Advocate for respondent No.5.

G.S. Sandhawalia, J.(Oral)

1. The present judgment shall dispose of above referred two appeals, which arise out of a common order dated 21.08.2024 passed by the learned Single Judge, whereby writ petitions filed by the appellants have been dismissed by relegating the appellants to their alternate remedy of filing election petition under the Punjab Co-operative Societies Act, 1961 (for short '1961 Act').

2. The learned Single Judge while relegating the present appellants to their alternate remedy of filing election petition has noticed that the nomination papers had been rejected on 02.08.2021 and copy of the same had not been

supplied to them. Accordingly, keeping in view the judgment passed in **Indu Lata Aggarwal and another VS. Joint Registrar Co-operative Societies, Patiala Division, Patiala and others, 2011 (4) PLR 157**, the writ petitions were dismissed.

3. Senior Counsel for the appellants has vehemently submitted that the election petition could not have been filed in the absence of the reasons given and on the same date an application has been filed for supply of the orders rejecting the nomination papers, while referring to Annexure P-4. It is submitted that the writ petition was immediately filed and initially the status-quo order was also passed regarding the election process, which was under challenge. It is, thus, submitted that even an application as such was filed bearing CM-16395-CWP-2021 in CWP-16802-2021 for supply of the nomination papers and no specific order had been passed, since the respondents have taken the plea that the writ petition is not maintainable and the writ petitioners have an alternate remedy under the provisions of the Act and can file an election petition under Section 55/56 of the 1961 Act read with Rule 12(2) of Appendix C Part 1 of the Punjab Co-operative Societies Rules, 1963.

4. Counsel for respondent No.5-contesting respondent, has submitted that since the election record had been sealed and no directions had been issued, copies could not be supplied.

5. We have perused the paper-book. The order dated 02.08.2021 (Annexure P-5) would go on to show that while scrutinizing the nomination papers, eight nominations had been rejected and the election record had been sealed by the Returning Officer. The result had been declared on 04.08.2021(Annexure P-6) and, thereafter, the writ petitions had been preferred. A perusal of the election result would go on to show that private

respondents have been elected without any election being held on account of the fact that nomination papers of the appellants had been rejected and, thus, the same were uncontested. The zimni orders passed by the learned Single Judge would also go on to show that an application for vacation of stay bearing CM-15049-CWP-2021 in CWP-16802-2021 had been filed and while filing the written statement, plea of alternate remedy had been raised. The necessary application had been filed for supply of the rejection orders bearing CM-16395-CWP-2021 in CWP-16802-2021.

6. Proceedings at that time were being conducted through video conferencing due to outbreak of COVID-19 pandemic, which would be clear from the zimni orders, since directions were issued to call for the record of the election process vide order dated 02.02.2022 firstly. Thereafter, the records had been received on 22.02.2022 and had been produced in two trunks and matter was again being heard by way of video conferencing. Similarly, the order dated 27.04.2022 goes on to show that directions were issued to keep the record in a sealed position and be produced as and when directed by the Court and the office was directed to return back the record after sealing the same and be kept in the same manner till the same is summoned again.

7. Apparently, at that point of time it could not be impressed upon the learned Single Judge to supply copy of the rejection orders. Respondent No.5 in the written statement filed had taken the plea that the election record had been sealed after declaration of the result and, therefore, the pleadings as such regarding for what reasons the nomination papers had been rejected could not come forth.

8. In such circumstances, we are of the considered opinion that while relegating the writ petitioners to their alternate remedy, the learned Single Judge should have issued necessary directions for supplying the

certified copy of the rejection orders. Accordingly, let the needful be done within a period of one week, so that the election petition can be filed within one week, thereafter, if the appellant so desires. The Joint Registrar shall supervise the opening of the record and handing over the certified copies and sealing the record, thereafter. Accordingly, keeping in view the above, in case the petition is filed by the appellant within the above-stipulated period, respondent No.2-Registrar, Co-operative Societies, Punjab, shall take steps to decide the same within six months from the date of receipt of certified copy of this order.

9. With the aforesaid observations, the present letters patent appeals are disposed of.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

09.09.2024
Naveen

Whether speaking/reasoned :	Yes
Whether Reportable :	No