



CWP-18239-2024 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP-18239-2024 (O&M)
Date of Decision: 17.03.2026**

Kulwant Singh Gill and another

.... Petitioners

Versus

Registrar, Cooperative Societies U.T., Chandigarh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. I.S. Saggu, Advocate
for the petitioners.

Mr. Himanshu Arora, Addl. Standing Counsels &
Mr. Sumeet Jain, Additional Standing Counsel,
for respondents No.1 & 2-U.T., Chandigarh.

Mr. Raj Kaushik, Advocate,
for respondents No.3 & 6.

Mr. Sarvjeet Singh Thakur, Advocate,
for respondent No.4.

Mr. Kamal K. Sharma, Advocate,
for respondent No.5.

Mr. Harsh Chopra, Advocate,
for respondent No.12.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226 & 227 of the Constitution of India praying for issuance of a writ to quash the proceedings/order passed by the Returning Officer to the extent that the result of the election process has not been declared as per the election programme (Annexure P-2) and the same has been postponed indefinitely being illegal, arbitrary, without jurisdiction, *mala fide*, contrary to the record

and against the well settled proposition of law; with a further direction to the official respondents to declare the result of the election of the Managing Committee of the Society held on 18.07.2024 by starting the election process from the stage it was stopped/stayed i.e declaration of result as petitioners and respondents No.7 to 11 have been elected unanimously, in the interest of justice, as it is well settled law the election once set in motion cannot be stayed but in the present case the declaration of the result of election of the society has been illegally postponed/stayed by the Returning Officer-respondent No.5.

2. Mr. I.S. Saggu, learned counsel for the petitioners with Mr. Tejveer Singh Saggu, Advocate, while giving the brief facts of the case has submitted that the election programme was framed by the Joint Registrar, Cooperative Societies, U.T., Chandigarh on 03.07.2024, which has been attached with the present petition as Annexure P-2. The aforesaid Election Programme of the Sector-16, Cooperative House Building First Society Limited, Chandigarh is reproduced as under:-

*“From
The Joint Registrar,
Cooperative Societies,
UT. Chandigarh*

*To
Ms. Monika, Inspector Gr. II (A)/ Election Manager,
The Chandigarh Sector 16 Cooperative House Building
(First) Society Ltd, Sector 50-C, Chandigarh.*

Memo No. Coop/HB/2024 Dated, Chandigarh, the

***Subject: Submission of election programme of the
Chandigarh Sector 16 Cooperative House Building First
Society Ltd. Chandigarh.***

*Reference your letter no. Coop/Audit/EM/2024/471 dated:
28/06/2024 on the subject cited above.*

The election programme of the Chandigarh Sector 16

Cooperative House Building Society Ltd. Chandigarh is approved as under:-

SR. NO.	PARTICULARS	DATE	TIME
1.	Particulars of Notice	02.07.2024	-
2.	Filing of Nominations papers	18.07.2024	10:00 AM to 11:00 AM
3.	Scrutiny of Nominations papers	18.07.2024	11:00 AM to 11:30 Noon
4.	Display of List of validly Nominated candidates	18.07.2024	11:30 AM to 12:00 Noon
5.	Objection, if any	18.07.2024	12:00 Noon to 12:30 PM
6.	Withdrawal of candidature	18.07.2024	12:30 PM to 01:00 PM
7.	Display of list of Candidates after withdrawal	18.07.2024	01:00 PM to 01:30 PM
8.	Allotment of Symbols (if necessary)	18.07.2024	01:30 PM to 02:00 PM
9.	Venue for Sr. No. 1 to 8	Park Near the Gate No. 2, Victoria Enclave, Sector 50-C, Chandigarh	
10.	Declaration of result after nomination (where no polling is to be held)	18.07.2024	If the number of contesting candidates is less than or equal to the number of seats then the result will be declared within one hour.
11.	Date and time for polling (if necessary)	19.07.2024	10:00 AM to 03:00 PM
12.	Counting of Votes and declaration of result	19.07.2024	Where polling is conducted, the counting & declaration of result will be made within one, two or three hours (depends upon the number of members)
13.	Venue for Sr. No. 11 & 12	Park Near the Gate No. 2, Victoria Enclave, Sector 50-C, Chandigarh	

Sh. Varun Rohila, Inspector Gr. II (A) and Ms. Monika, Inspector Gr. II (A) is appointed as Returning/ Polling Officer respectively. The notice of election shall be published in three dailies newspaper

including one in Hindi, English and Punjabi and to follow the procedure as laid down in the Bye-Laws of the society.

*Sd/-
For Joint Registrar
Cooperative Societies
UT, Chandigarh”*

3. While referring to the aforesaid election programme, he submitted that the election process commenced with the notice dated 02.07.2024 and from 18.07.2024, various tasks were scheduled at different times on the same date, beginning with the filing of nomination papers. He further submitted that the petitioners also filed their nomination papers, which were scrutinized by the Returning Officer. Thereafter, there was a display of validly nominated candidates, which were 9 in number including the petitioners and in this regard, he referred to Annexure P-4. As per the schedule, objections, if any, were to be invited from 12:00 Noon to 12:30 PM; followed by the withdrawal of candidature from 12:30 PM to 01:00 PM and thereafter, list of candidates after withdrawal was required to be displayed from 01:00 PM to 01:30 PM. However, after two candidatures withdrew from the aforesaid nine candidates, leaving seven, the Returning Officer, instead of declaring the results, cancelled the election. This was despite the fact that voting was scheduled for seven seats and exactly seven candidates remained, including the present petitioners. Consequently, the Returning Officer ought to have declared all seven candidates unanimously elected in terms of Column No.10 of the Election Programme.

4. Learned counsel further submitted that it is a settled law that once the election process has commenced, no one can interrupt or halt it and if any person is aggrieved by any irregularity or default in the election process, then the same can be redressed only by way of filing of an election

petition after the elections conclude and the results are declared whereas in the present case, the Returning Officer had got no power to cancel the elections once the election process has begun. In these circumstances, learned counsel prayed that a direction be issued to the respondents to declare the petitioners as duly elected candidates, unopposed, in accordance with the aforesaid election programme.

5. On the other hand, Mr. Kamal K. Sharma, learned counsel appearing on behalf of respondent No.5-Returning Officer along with other learned counsels for the respondents have jointly submitted that the grievance raised by learned counsel for the petitioners is misconceived. They also referred to the aforesaid election programme and submitted that as per the said programme, the Returning Officer was required to undertake the tasks in chronological order. In this regard, learned counsel for respondent No.5 referred to the reply filed on behalf of Returning Officer. While referring to the aforesaid reply and making submissions as to why the need arose to cancel the election, he stated that when the petitioners, who had filed the nomination papers along with seven more persons (total nine persons), were displayed as tentative validly nominated candidates on the basis of their nomination, which was required to be displayed in pursuance of Column No.4 from 11:30 AM to 12:00 Noon and two candidates out of the aforesaid nine withdrew, leaving seven candidates remaining. However, objections were also received from various members of the Society in pursuance of Column No.5. Upon examining the objections, the Returning Officer found various issues regarding wrongful nominations due to the non-availability of the complete record pertaining to the list of members and defaulters. It was brought to the notice of the Returning Officer that

Petitioner No.1 was not even a member of the Society and in this regard, the objections were required to be considered and decided in pursuance of the election programme before any further process could be undertaken. Further referring to the reply, he submitted that various objections were raised by Sh. S.K. Banerji and other persons, but due to the non-availability of the record and defaulter list, the final display of the list of candidates after withdrawals, in pursuance of Column No.7 of the election schedule, was never made by the Returning Officer. In this way, no list was displayed after deciding the aforesaid objections as the objections were never decided.

6. Mr. Kamal K. Sharma, learned counsel for respondent No.5 further submitted that when no record was available with the Returning Officer, he referred the matter to the Registrar, Cooperative Societies, U.T., Chandigarh, seeking instructions as to whether the candidates are members or not so that the objections can be decided. However, the Registrar, Cooperative Societies neither conveyed any decision nor provided guidance for the aforesaid purpose as to whether the remaining seven candidates were the members of the Society or not because it was the duty of the Returning Officer to decide the objections and after deciding the same, the final list was required to be displayed which was never displayed at all. He has referred to the proceedings of the Society which has been annexed with the reply/affidavit filed by the Registrar, Cooperative Societies, U.T., Chandigarh (Annexure A-1) wherein it was specifically recorded that the elections were required to be cancelled due to the absence of records and ongoing disputes among members, which prevented completion of the election process. The proceedings were accordingly dropped at the stage of deciding the objections, which were never adjudicated. Thus, no fault can be

attributed to the procedure adopted by the Returning Officer.

7. Learned counsel further submitted that the petitioners thereafter filed the present writ petition before this Court on 31.07.2024, a few days after the aforesaid decision was taken by the Returning Officer. Vide order dated 20.01.2025, a Coordinate Bench of this Court directed that, till such time, the documents, which were required to be filed by the Returning Officer, are placed on record, no fresh election programme shall be published. Consequently, no fresh election programme has been published, and no election to the aforesaid Society has been held.

8. Learned counsel further submitted that although it is a settled law that once the election process has commenced, any challenge to the election must be pursued by way of an election petition filed by the aggrieved party but the present is a case where the election process itself remained incomplete because the objections were never decided, leaving the Returning Officer with no option but to cancel the election due to the non-availability of the relevant records, which rendered it impossible to adjudicate the objections. Accordingly, the present petition is liable to be dismissed.

9. I have heard the learned counsel for the petitioners.

10. A perusal of the aforesaid election programme reveals that it was structured step by step, with the major step from the filing of nominations to the declaration of results after scrutiny to be undertaken on 18.07.2024, without any polling. It was the case of learned counsel for the petitioners that once the election process had commenced, the Returning Officer could not stop it because nine candidates had been scrutinized, two of whom withdrew, leaving seven candidates. Once the list of nine candidates was scrutinized

and displayed vide Annexure P-4, the Returning Officer was not empowered to cancel the election programme. However, it was the case of the learned counsel for respondent No.5-Returning Officer that the display of the list of validly nominated candidates was tentative at the initial stage based solely on the receipt of the nomination papers, but it had to be scrutinized on the basis of the objections which were also invited as per Column No.5, but thereafter, the objections were never decided and as per Column No.7, there was no display of any candidate after the withdrawal.

11. An argument which was raised by learned counsel for the petitioners that once the election process commences, it cannot be interrupted as the sole remedy lies in filing an election petition in accordance with law. There is no dispute with regard to the aforesaid proposition. However, the issue involved in the present case is not with regard to raising of any grievance by any of the members during the process of the election. If a person is aggrieved by the election outcome, then the remedy is to file an election petition which is always after the completion of the election process and no interim challenge is permissible. However, the present case does not fall in the aforesaid category because the present is a case where the election process itself could not be completed because the objections could not be decided and the election process was cancelled by the Returning Officer and not by any of the candidates or by any voters. While perusing the affidavit filed by the Returning Officer and the arguments raised by learned counsel for the Returning Officer, it is very clear that initially there was a display of list of validly nominated candidates vide Column No.4 and thereafter, objections were invited. Although two candidates withdrew at that stage but as per the learned counsel for the petitioners, such withdrawals ought to have occurred only after the disposal of objections and

notably the interval between these steps was a mere half-hour. It was from Column No.7 onwards whereby display of list of candidates after the withdrawal that the election process was to be completed. However, Column No.7 never materialised as the objections which were invited at Column No.5 were never decided by the Returning Officer. This is clear from the affidavit filed by the Returning Officer which states that the record was not available with him and he wrote a letter to the Registrar, Cooperative Societies, U.T., Chandigarh seeking information but the Registrar, Cooperative Societies did not provide any instructions or directions in this regard and in this way, the tentative display of list of validly nominated candidates as per Column No.4 could not be finalized vide Column No.7.

12. In view of the above, this Court is of the considered view that there is no illegality or infirmity in the decision taken by the Returning Officer in cancelling the election process. Consequently, the present writ petition is dismissed. The interim order dated 20.01.2025 shall stand vacated. It is directed that respondent No.3 and the Registrar, Cooperative Societies, U.T., Chandigarh shall undertake the exercise of conducting fresh elections as early as possible, preferably within a period of three months from today and in accordance with law.

13. Miscellaneous applications, if any, shall also stand disposed of since the main case has been dismissed.

17.03.2026

(JASGURPREET SINGH PURI)

Bhumika

JUDGE

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No