

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 9777 of 2008

Date of decision: 31-05-2008

Jagmeet Singh Brar and othersPetitioners

Vs.

The State of Punjab and othersRespondents

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Coram: **Hon'ble Mr. Justice K.S.Garewal**
Hon'ble Mrs. Justice Daya Chaudhary

Present: Mr. Rajiv Atma Ram, Senior Advocate with
Ms. Jaishree Thakur, Advocate, for the petitioner.

Mr. Amol Rattan, Additional Advocate General, Punjab

K.S.GAREWAL, J.

This petition raises an important question of law, the petitioners claiming annulment of the elections conducted on May 26, 2008 because the State Election Commission had failed to deliver ballot papers to a large number of panchayat constituencies which led to postponement of elections in approximately 450 Gram Panchayats. Therefore, the entire election process over 12381 panchayats (total panchayats 12831 less 450 panchayats where elections have been postponed for want of ballot papers) should be held again.

The second question raised by the petitioners is with regard to the failure of the State Election Commission to impose a complete ban on sale and distribution of liquor for 48 hours period, starting from 4.00 P.M. on May 24, 2008. This was in violation of Section 135-C of the Representation of People Act, 1951.

As regards the first point—failure to deliver ballot papers to the various Returning Officers in time, learned Senior counsel submitted that all orders for printing ballot papers had been placed with a Delhi printer by the State Election Commission. This was contrary to the past practice when printing of ballot papers was done by Deputy Commissioners of the concerned district. The Delhi based company failed to supply ballot papers to a large number of constituencies. According to the learned counsel there was no provision in the Punjab State Election Act which enabled the State Election Commission to postpone any elections on account of non-arrival of ballot papers. This was covered neither by Section 58, relating to adjournment of polls in emergencies, and nor by Section 60, relating to adjournment of polls/ countermanding of election on the ground of booth capturing.

As the poll was not held in 450 panchayats the result of the remaining 12381 panchayats would certainly influence the minds of voters. The candidates belonging to the ruling party had swept the polls, therefore, either the counting should be deferred till the elections are held in the 450 Panchayats or the entire elections be held again.

Notice of motion was issued to the respondents and learned Additional Advocate General appeared to defend the elections. It was argued that the printing of ballot papers had been done by a printing agency which had approval of the Reserve Bank of India. Some ballot papers were defective on account of printing of the names of candidates who had already been elected unopposed as panches in their respective categories. Therefore, these defective ballot papers could not have been used in the election as it would have led to utter confusion. On this ground the ballot

papers were withheld and the elections were postponed. Furthermore, adjournment of polls had been done in terms of Section 58(1) which entitled the Election Commission to adjourn the poll to a later date on account of interruption or obstruction by any riot or violence, it becoming impossible to take the poll on account of any natural calamity or any other sufficient cause.

In the present case polls had been adjourned because the ballot papers were defective. This was certainly a sufficient cause. Rule 31(1)(iv) of the Punjab Panchayat Election Rules 1994 entitles Returning Officer/Presiding Officer/ District Election Officer/ Election Commission to adjourn the poll for any sufficient reason to be recorded in writing. In the present case reasons had been recorded in writing and the poll was adjourned. We are convinced that there were sufficient reasons to adjourn the polls and the reasons were valid as well as reasonable.

On the question of prohibition of sale of liquor on May 25 and 26, which were declared as dry days vide order dated May 16, 2008 (Annexure P-2), we would like to say that the law had been sufficiently complied with. The polling day as well as the day previous to the polling day were both dry days. The entire election to 12381 panchayats cannot be now be countermanded/invalidated for the reasons advanced by the petitioners.

We find no merit in this petition. Petition is hereby dismissed.

(K.S.GAREWAL)
JUDGE

(DAYA CHAUDHARY)
JUDGE

May 31,2008
RSK

NOTE: Whether to be referred to the Reporter or not?