

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Civil Writ Petition No.17659 of 2020

Date of Decision: *October 30, 2020*

Deepak Kumar Bartia

..... PETITIONER(S)

VERSUS

Punjab & Haryana High Court Bar Association & others

..... RESPONDENT(S)

. . .

CORAM:      HON'BLE MR. JUSTICE JASWANT SINGH  
                    HON'BLE MR. JUSTICE SANT PARKASH

. . .

PRESENT: - Mr. Dinesh Singh Rawat, Advocate, for the petitioner.

Mr. G.S. Bal, Senior Advocate, with Mr. Sewa Singh,  
Advocate, for respondent No3.

Mr. Sanjeev Kumar Birla, Advocate, in person, as  
respondent No.5.

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Sant Parkash, J

The instant Civil Writ Petition has been preferred under Article 226/227 of Constitution of India for issuance of a writ in the nature of mandamus, directing respondent No. 3-Election Committee of High Court of Punjab and Haryana Bar Association, to allow the petitioner to contest for the post of Executive Member (below 10 years) in the upcoming election of Bar Association of Punjab and Haryana High Court, to be held on 06.11.2020 which has been orally denied by respondent No. 3 rejecting the candidature of the petitioner.

Learned counsel for the petitioner has contended that respondent No. 3 declared that Bar Association of Punjab and Haryana High Court, Chandigarh is going to hold the elections of HCBA, on 24.10.2020, for the post of President, Vice President, Secretary, Joint Secretary, Treasurer, Designated Senior Member, Lady Executive Members (above 10 years) and Executive Member (below 10 years). Respondent No. 3 also invited nomination/application forms from the interested candidates and the date of filing the nomination papers was 14.10.2020.

Learned counsel further contended that petitioner, being eligible for the post of Executive Member (below 10 years) filed his nomination papers on 14.10.2020 (Annexure P-1). The said form was proposed by Dr. Govinder Singh Brar, Advocate as first proposer and Mr. R.P.Daaria, Advocate being second proposer. Subsequently, respondent No.2-Bar Council of Punjab and Haryana through its Chairman, issued fresh notification dated 16.10.2020 (Annexure P-2) thereby changing the date of polling from 24.10.2020 to 06.11.2020.

It is also contended that on 16.10.2020, respondent No. 3 telephonically informed the petitioner that his nomination form has been rejected, for the reason that Mr. R.P.Daaria, Advocate had also proposed respondent No. 7 for the post of Joint Secretary, as first proposer. That being the position, the said proposer appeared before respondent No. 3 who gave his consent in favour of the petitioner by submitting an affidavit and withdrawing his proposal in favour of respondent No. 7. Despite the above facts, nomination form of the petitioner has been rejected and that of respondent No. 7 was accepted.

Learned counsel for the petitioner has submitted that petitioner also submitted a representation dated 17.10.2020 (Annexure P-5) before respondent No. 3 for reconsideration of his candidature, which has also been rejected without supplying any order.

Learned counsel for the respondents has submitted that election process has already commenced. The petitioner has concealed material facts from this Court. Both the orders dated 15.10.2020 (Annexure R-3/1) and 17.10.2020 (Annexure R-3/2), rejecting his candidature/representation were communicated to the petitioner. Mr. R.P.Daaria had already proposed the name of Ms. Kanu Sharma, Advocate for the post of Joint Secretary, which was received in earlier point of time as she had deposited the security amount vide receipt No. 9517 dated 14.10.2020 and her nomination was found in order. Nomination paper of the petitioner was received later on since he deposited the security amount vide receipt No. 9518 dated 14.10.2020, and thus, it being in violation of election rules was required to be rejected.

We have heard the learned counsel for the parties and perused the record.

A perusal of written statement along with Annexure R-3/1 clearly depicts that Mr. R.P.Daaria, Advocate had proposed the name of the petitioner and respondent No. 7. It is also evident from the reply that nomination paper of respondent No. 7 was received earlier than that of petitioner. Respondent No. 7 also deposited the security amount vide receipt No. 9517 dated 14.10.2020, whereas petitioner deposited the security amount vide receipt No. 9518 dated 14.10.2020. Even though,

Mr. R.P.Daaria withdrew his proposal in respect of respondent No. 7, candidature of petitioner is not liable to be accepted since his nomination paper was not in order, the same having been filed subsequent to the filing of nomination papers of respondent No. 7.

Learned counsel for the petitioner has argued that the orders dated 15.10.2020 (Annexure R-3/1) and 17.10.2020 (Annexure R-3/2) were not communicated to the petitioner and he was just informed telephonically. He also submits that respondent No.3 was duty bound to adhere to the principles of natural justice and without giving an opportunity of being heard and ignoring all the canons of settled law, the candidature of the petitioner has been arbitrarily rejected.

This submission of learned counsel does not carry any weight at all. It is the version of the petitioner himself that he was telephonically informed on 16.10.2020 that his candidature was rejected. There is a specific averment in the written statement that both the orders dated 15.10.2020 (Annexure R-3/1) and 17.10.2020 (Annexure R-3/2) were duly communicated, whereas the present writ petition was filed on 22.10.2020. In the given circumstances, it does not lie in the mouth of the petitioner to raise such plea before this Court. Moreover, the petitioner in para 17 of the petition itself has averred that there is a provision of appeal against the decision of the Election Committee/respondent No.3, before the Election Dispute Resolution Committee of the Punjab and Haryana High Court Bar Association. However, on account of non formation of the said Committee, the petitioner approached the Bar Council of Punjab and Haryana/respondent No.2 vide representation dated 18.10.2020

(Annexure P-8) against the unjust and arbitrary decision of Election Committee/respondent No.3. It is further averred that till date no action has been initiated by respondent No.2 on his said representation.

Above all, the facts averred in the writ petition have been controverted specifically by respondent No.3 in its reply and this Court, under Articles 226/227 of the Constitution of India, cannot look into the disputed questions of facts. Moreover, the election process has already been started and in the given circumstances, the remedy available to the petitioner was to approach the competent authority provided under the bye-laws for redressal of the grievance and this Court is not the platform to raise the plea of rejection of the candidature at this stage.

Looking from every angle, we are of the considered opinion that the present writ petition is devoid of any merit and therefore, it is dismissed.

**(Jaswant Singh)**  
**Judge**

**(Sant Parkash)**  
**Judge**

**October 30, 2020**

avin/mks

Whether Speaking/ Reasoned:  
Whether Reportable:

Yes/ No  
Yes/ No