
(1985) 04 P&H CK 0048
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 652 of 1985

Jaswant Singh Gill

APPELLANT

Vs

The State of Punjab and others

RESPONDENT

Date of Decision : 23-04-1985

Acts Referred:

Punjab Municipal Act, 1911 — Section 16, 16(2), 16(3), 22

Citation : (1985) 2 ILR (P&H) 421

Hon'ble Judges : Pritpal Singh, J;D.S. Tewatia, J

Bench : Division Bench

Advocate : Kuldip Singh and Mr. T.S. Doabia, for the Appellant; Ashok Bhan , Mr. Inderjit Malhotra, for the Respondents Nos. 2 and 3. and Mr. H.S. Bedi, D.A.G. Punjab, for the Respondent

Judgement

D.S. Tewatia and Pritpal Singh, JJ.—Petitioner Shri Jaswant Singh Gill, President, Municipal Committee, Khanna, stands removed both from Presidentship and Membership of the said Municipal Committee,—vide order dated 7th February, 1985, Annexure ,P 6, after being served with a show cause notice Annexure P-1 in terms of Sections 16 and 22 of the Punjab Municipal Act (hereinafter referred to as the Act). The Petitioner has impugned the said order in this Court.

2. Counsel for the Petitioner has canvassed before us that the Petitioner could not have been removed and disqualified from the Membership of the Municipal Committee. He could only have been removed from Presidentship thereof In support of his submission he placed reliance on a Division Bench judgment of this Court in Sohan Lal Ahuja v. State of Punjab 1984 P. L. J. 288. We find no merit in the contention advanced on behalf of the Petitioner. The case is squarely covered by a Full Bench decision of this Court reported in Joginder Singh v. State of Punjab (1963) 65 P. L. R. 267.

3 The charge against the Petitioner, inter alia, was that he had flagrantly abused his power as President and Member of the Municipal Committee.

4. Similar was the case which came up for consideration before the Full Bench. In that case Ram Kishan was the Member and President of the Municipal Committee, Bassi Pathanana. The charge against him was that he had shown an undue favour to a party and had caused loss to the Municipal funds. The notice called upon him to show-cause as to why he should not be removed from the Membership and Presidentship of the Municipal Committee. It was argued before their Lordships that the acts imputed to the Petitioner in that case were done by him as President of the Municipal Committee and, if the acts were wrongful, could and might have been removed from that office but could not have been removed from the Membership of the Municipal Committee. The contention was repelled by the Full Bench with the following observations:-

The argument almost seeks to divide the Petitioner's personality into two, that is, as a member of the Municipal Committee and as the President of the Municipal Committee. It is, I think, hardly possible to do so. The Petitioner was a member of the Municipal Committee, and only as such he could have been its President. If, therefore, while being a member of the Municipal Committee, he tampered with Municipal records in order to show favour to a particular character and in collusion with the Secretary, as is the allegation, he got an excessive tender accepted for the supply of inferior goods, he cannot be said to have acted only as the President of the Committee without any connection with his being a member of the Committee. It is true that the State Government may well have decided to remove him from the office of the President, but if the State Government found, as Government did in this case, that he had by his acts flagrantly abused his position as a member of the Committee, it cannot be said that the conclusion had no basis. Considering the intimate relationship between the two positions held by the Petitioner, it is, I think, hardly possible to ascribe any dishonest act of his to one position rather than the other, for dishonest conduct, such as is found in this case, relates to both capacities. The argument, therefore, that on the allegations he could have been removed only from the office of the President, cannot, in my opinion, be sustained.

5. In Sohan Lal Ahuja's case (supra), relied upon on the behalf of the Petitioner, the Bench expressed the opinion that since a President can be removed even on grounds on which a member cannot be removed, so his removal from the office would not entail automatic removal from the membership of the Committee. There cannot be any dispute with the proposition that an order removing a President of the Municipal Committee on ground on which a member cannot be removed would not automatically entail the removal of the person from the membership of the Municipal Committee nor would it entail automatic disqualification of such person from being member of the Municipal Committee. But removal of a President on a ground on which if he had been member of the Municipal Committee, he could have been removed, then it cannot be urged in view of the Full Bench decision aforementioned that he could only have been removed from the Presidentship and not from Membership. If such a contention is accepted, then the order removing a President could be nullified by the

members of the Committee by electing him again as the President of the Municipal Committee, for our attention has not been drawn to any provision in the Act envisaging disqualifying the President after his removal, from becoming President of the Municipal Committee for any period. Such provision exists in Sections 16(2) and 16(3) of the Act only in regard to the person who has been removed from the Membership of the Municipal Committee.

6. For the reasons aforementioned, there is no merit in the petition and we dismiss the same in limine.