

(2001) 11 P&H CK 0127

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 13654 of 2001

Ajay Kumar

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision: Nov. 9, 2001

Acts Referred:

- Punjab Municipal Act, 1911 - Section 22

Citation: (2002) 2 RCR(Civil) 437

Hon'ble Judges: Adarsh Kumar Goel, J

Bench: Single Bench

Advocate: Rajesh Gumber, for the Appellant; Chetan Mittal, AAG, Punjab, H.S. Sethi and Sudhir Sharma, for the Respondent

Final Decision: Dismissed

Judgement

Adarsh Kumar Goel, J.

This writ petition challenges resolution dated 25.09.2000 and notification dated 8.8.2001, which has the effect of removing the plaintiff from the post of President of the Municipal Council, Ghanaur, District Patiala.

2. The only ground of challenge is that the procedure adopted while passing no confidence motion was to ascertain the views of the members by show of hands and since the procedure of appointment of the President is by secret ballot, the procedure for no confidence motion has to be by the same procedure under the provisions of General Clauses Act. Reliance is placed on a Single Bench decision dated 16.08.2001 of this Court in C. W.P. No. 7688 of 2000. Rejinder Pal Kaur v. State of Punjab.

3. Notice of motion was issued and it has been stated in the reply that the meeting for considering no confidence motion was presided over by the petitioner himself and no objection was taken therein that the procedure of ascertaining the view of the members by show of hands was not valid. It is submitted that the judgment of

this Court in Rajinder Pal Kaur's case (supra) is distinguishable, as in that case objections had been raised in the meeting itself and it was clarified by this Court that legal position will be different, where no such objection is raised at the time of meeting, as in the present case.

4. After hearing counsel for the parties, I find no substance in the writ petition, In view of that fact that the meeting for considering the matter of no confidence motion was presided over by the petitioner himself and no objection to the procedure was taken. In this view of the matter, the judgment of the Single Bench is of no help to the petitioner. It may be noted that the provisions for considering no confidence motion have since been amended, though perspectively and it has been specifically provided that views of the members on no confidence motion could be ascertained by show of hands. There is, thus, no inherent defect in the procedure in ascertaining the views of the members by show of hands. In any view of the matter, this petition cannot succeed, since the petitioner himself presided over the meeting and he had an option of disallowing the consideration of no confidence motion by show of hands. 5. For the above reasons, this petition is dismissed.