

2025.PHHC:041839-DB



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

**CWP-5208-2025 (O&M)**

**CWP-5763-2025 (O&M)**

**Date of decision: 17.03.2025**

ASHWANI GUPTA

.....Petitioners

Versus

STATE OF PUNJAB & ORS.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH  
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present:- Mr. Nikhil Ghai, Advocate for the petitioners.

Mr. Kuljit Singh, Addl.A.G., Punjab and  
Mr. Maninder Singh, DAG., Punjab  
for respondents No.1 to 3.

Mr. Lakit Singla, Advocate;  
Ms. Varsha Sharma, Advocate and  
Mr. Abhishek Garg, Advocate  
for respondents No.4 to 18.

**SUDHIR SINGH, J.**

This order shall dispose of the above noted writ petitions.

2. In CWP-5208-2025, the petitioner has sought a writ of Certiorari quashing the resolution dated 15.02.2025 (Annexure P-14), whereby no confidence motion was passed against him being, illegal and abuse of process of law, whereas in CWP-5763-2025, the petitioner has sought issuance of a writ in the nature of Mandamus

directing the official respondents not to conduct the meeting of no confidence motion on 03.03.2025, in view of the no confidence motion already conducted on 15.02.2025, which was illegal.

3. It may be noticed that both the petitions have been filed by one and the same petitioner i.e., Ashwani Gupta. Coming to CWP-5208-2025, it may be noticed that on 24.02.2025, when the matter came up for hearing, this Court passed the following order:-

“By way of the present writ petition, the petitioner has sought issuance of an appropriate writ in the nature of Certiorari for quashing the resolution dated 15.02.2025 (Annexure P-14), whereby no confidence motion has been passed against the petitioner.

Learned counsel for the petitioner has submitted that earlier, the date for no confidence motion was fixed for 03.03.2025, but surprisingly, the Executive Officer, Municipal Council-respondent No.2 has preponed the date of election and got the no confidence motion passed.

Notice of motion.

Served with the advance copy of the petition, Mr. Kuljit Singh, Addl. A.G., Punjab, accepts notice on behalf of the respondents seeks time to file response, explaining as to whether respondent No.2 has any such power, under the Legislation, to prepone the date fixed by the President of the Municipal Council.

Put up on 10.03.2025.

4. Pursuant to and in compliance of the aforesaid directions issued by this Court, short replies have been filed by respondents No.2 and 3, which are taken on record.

5. Learned State counsel, while referring to the contents of the aforesaid short reply, submits that the no confidence motion conducted on 15.02.2025 by the Councilors and the MLA of the area being Ex Officio Member, Nagar Council, Samana, was conducted of their own and the same did not have any legal sanctity. It is further submitted that when the meeting had already been called by the petitioner being the President of the Nagar Council, Samana, for 03.03.2025 vide agenda circulated on 14.02.2025, there was no order passed by the Competent Authority for modification or alteration of the said proceedings. It is further pointed out that respondent No.3 vide her office letter dated 11.02.2025 has forwarded her recommendations to the competent authority i.e., Secretary Department of Local Government Punjab through proper channel, to declare the meeting held on 15.02.2025 as null and void.

6. Similarly, the learned counsel appearing for respondent No.2 while adverting to the short reply filed on behalf of the said respondents would submit that the so called no confidence motion was passed by the Councilors and the Local MLA on 15.02.2025 at 4.00 PM at the back and without the consent of respondent No.2 and, thus, the said proceedings do not carry any legal value.

7. In view of the stand taken by respondents No.2 and 3, we are of the opinion that once respondent No.3 i.e., Deputy

Commissioner, District Patiala has already forwarded the proceedings dated 15.02.2025 to the competent authority i.e., Secretary Department of Local Government Punjab, to declare the same as null and void, the said proceedings do not carry any legal value.

8. In view of the stand taken by respondents No.2 and 3, we are of the opinion that once, respondent No.3 i.e., Deputy Commissioner, District Patiala has already forwarded the proceedings dated 15.02.2025 to the competent authority i.e., Secretary Department of Local Government Punjab, for declaring the same as null and void, the present petition has become infructuous and does not survive any longer.

9. Needless to say that the competent authority i.e., Secretary Department of Local Government Punjab shall proceed with the matter in accordance with law.

10. So far as CWP-5763-2025, is concerned, this Court on 01.03.2025 passed the following order:

“ This is the third round of litigation. In the first writ petition preferred by the petitioner i.e., CWP-3993-2025, the following order was passed on 13.02.2025.

“A very limited prayer has been made in the present petition, whereby, the petitioners seek process of No Confidence Motion against petitioner No.1 by way of “Secret Ballots” and not by “raise of hands”.

This Court finds nothing illegal, if the exercise of No Confidence Motion is carried out by way of “Secret Ballots”.

Learned State counsel is directed to file an affidavit in this regard on or before the next date of hearing. Put up on 20.02.2025.”

As per the earlier notification, no confidence motion against the petitioner was to take place on 03.03.2025. After the passing of the order, as referred to above, the date of vote of no confidence was preponed to 15.02.2025. The petitioner being aggrieved with the said conduct of the respondents, preferred the second writ petition i.e., CWP-5208-2025, wherein, on 24.02.2025, the following order was passed by this Court:-

“By way of the present writ petition, the petitioner has sought issuance of an appropriate writ in the nature of Certiorari for quashing the resolution dated 15.02.2025 (Annexure P-14), whereby no confidence motion has been passed against the petitioner.

Learned counsel for the petitioner has submitted that earlier, the date for no confidence motion was fixed for 03.03.2025, but surprisingly, the Executive Officer, Municipal Council-respondent No.2 has preponed the date of election and got the no confidence motion passed.

Notice of motion.

Served with the advance copy of the petition, Mr. Kuljit Singh, Addl. A.G.,

Punjab, accepts noticed on behalf of the respondents seeks time to file response, explaining as to whether respondent No.2 has any such power, under the Legislation, to prepone the date fixed by the President of the Municipal Council.

Put up on 10.03.2025.”

Learned counsel for the petitioner submits that without withdrawing the orders and proceedings in respect of the preponing of the no confidence motion for 15.02.2025, the respondents are proceeding to conduct the second vote of no confidence on 03.03.2025.

This Court has put a specific query to the learned State counsel in respect of the aforesaid conduct, but he is not in a position to clarify the same.

Considering the facts as referred to above, we are of the considered view that the respondents seem to be adamant to conduct the no confidence motion without following the procedure of law.

Notice of motion.

Let learned counsel for the State file a detailed counter affidavit in respect of the facts as referred to above.

In the meantime, status quo be maintained and the meeting dated 03.03.2025 be kept in abeyance.

Put up on 10.03.2025.

To be heard with CWP-5208-2025.

To be shown in the urgent list.

11. A perusal of the aforesaid order would show that this Court while passing the order dated 13.02.2025 had clearly observed that there was no illegality in exercise of no confidence motion by way of secret ballots. However, today learned counsel for the petitioner contends that in terms of the provisions of Punjab Municipal (President and Vice-President) Election Rules, 1994, the election to the post of President, Senior Vice-President, any Vice President of the Municipal Council(s), is to be conducted by secret ballots and not by show of hands. To make his argument good, learned counsel for the petitioner relies upon a Single Bench judgment of this Court in **Rajinder Pal Kaur Vs. The State of Punjab & Ors.** 2022(1) RCR (Civil) 91 and the Division Bench judgment of this Court in **Suresh Kumar & Anr. Vs. State of Haryana & Ors.** 2018(2) Law Herald 1441. However, we do not find any merit in the said argument raised by the learned counsel for the petitioner.

12. Rule 4 of the aforesaid Rules provides that the voting for the offices of the President, Senior Vice President, any Vice President, as the case may be, shall be by show of hands. The said Rule reads as under:-

“Voting by show of hands,- (1) The voting for the offices of President, Senior Vice-President any Vice-President, as the case may be, shall be by show of hands.

(2) The person presiding over the meeting convened under Rule 3, shall keep a brief record in writing.”

13. The aforesaid Rule had been substituted vide Punjab Govt. Notification No. G.S.R.71/P.A.3/11/S.240/Amd.(4)/2001, dated 17<sup>th</sup> May, 2001. The judgment in Rajinder Pal Kaur’s case (supra), pertains to the unamended Rules and, therefore, the same does not have any applicability to the present case. Similarly, the judgment in Suresh Kumar’s case (supra), has also no applicability to the facts of the present case.

14. In view of the above, we do not find any merit in the present writ petition as well.

15. Accordingly, both the writ petitions are dismissed. Needless to say that the no confidence motion proceedings against the petitioner shall be conducted, in accordance with law.

16. Pending application(s), if any, shall also stand disposed of.

**[ SUDHIR SINGH ]**  
**JUDGE**

**[ SUKHVINDER KAUR ]**  
**JUDGE**

17.03.2025

himanshu

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No