

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****113****CR-1295-2025 (O&M)****Date of Decision : 01.03.2025**

Alka Yadav

....Petitioner

VERSUS

Sushma

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vinay Kumar Pandey, Advocate for the petitioner.

Mr. Rakesh Dhiman, Advocate for the respondent.

ALKA SARIN, J. (Oral)

1. Present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 14.02.2025 whereby the application filed by the petitioner for leading additional evidence has been dismissed by the Election Tribunal.

2. The brief facts relevant to the present *lis* are that the petitioner herein has challenged the election of the respondent as Sarpanch of village Mohammadpur Ahir, Tehsil Tauru, District Nuh vide Election Petition No.8 of 2022. During the pendency of the election petition, the petitioner had approached this Court by filing CR-6043-2023 for expeditious disposal of the election petition averring therein that the respondent was using delaying tactics and the case was being adjourned from time to time. Vide order dated 12.12.2023 the said revision petition was disposed off with a direction that the election petition be decided within a period of 09 months. Subsequently,

extension was sought by the Election Tribunal, which was granted vide order dated 27.09.2024 once again directing that the matter be disposed off within a period of 03 months. Yet again a request for extension was sent by the Additional Civil Judge (Senior Division), Nuh, which was allowed vide order dated 20.01.2025 and one final extension for a period of 02 months was granted for disposing off the election petition. The petitioner during her evidence summoned election records for the post of Sarpanch of village Mohammadpur Ahir, village Dadu and two other villages, namely Jafrabad and Jalalpur Sohna (Kharak), Tehsil Tauru and three witnesses i.e. PW6, PW7 and PW8 were examined by her in this regard. PW6 brought the record of Booth No.26 to Booth No.29 in a sealed cover, which was opened on the direction of the Court concerned and were marked as PW6/A to PW6/E. On the same day i.e. 18.10.2024, PW7 appeared and the record brought by the said witness qua Booth No.12 was opened and exhibited. PW8 also appeared on 18.10.2024 and brought the record, which was opened and exhibited. In February 2025 when the case was at the stage of rebuttal evidence, if any, and arguments, an application was filed by the petitioner for leading additional evidence. In the said application it has been stated that the petitioner had obtained copies of the record of the election produced by the said witnesses for preparing final arguments and it had come to the notice of the petitioner that the Register of Voters Annexure-1 of EVM Order 2008 in respect of the said election for the post of Sarpanch of village Mohammadpur Ahir and village Dadu and also village Jafrabad had not been brought by the said witnesses and the same were not found in the said

packets tendered before the Court. It was further stated that the Register of Voters Annexure-1 of EVM Order 2008 in respect of the election of Sarpanch of village Mohammadpur Ahir, village Dadu and also of village Jafrabad were necessary for proper and effective decision of the case and prayed that PW6 and PW7 may be summoned to produce the registers. Reply was filed to the said application and vide the impugned order dated 14.02.2025 the application was dismissed. Hence, the present revision petition.

3. Learned counsel for the petitioner would contend that PW6 and PW7 had not brought the Register of Voters and that the record was brought in a sealed cover and the petitioner was not aware of the same till she applied for copies for preparing the case for final arguments and it is only at that stage that she came to know that the Register of Voters had not been produced by the witnesses and hence was compelled to file the application for additional evidence. It is further the contention that the said evidence is necessary for bringing the correct facts on the record.

4. Mr. Rakesh Dhiman, Advocate has put in appearance on behalf of the respondent and has filed his *vakalatnama*, which is taken on record. He has pointed out that the petitioner herself had approached this Court by filing CR-6043-2023 for expeditious disposal of the election petition, which was allowed vide order dated 12.12.2023 granting 09 months' time for disposal of the election petition. Subsequently, two orders were passed in the same revision petition for extension - one for a period of 03 months vide order dated 27.09.2024 and one for a period of 02 months vide order dated

20.01.2025. Learned counsel for the respondent has further pointed out that on both the dates i.e. 27.09.2024 and 20.01.2025, learned counsel for the petitioner was present in Court and both the said orders of extension were passed in his presence. Learned counsel for the respondent has further pointed out that PW6 and PW7 appeared in Court on 18.10.2024 and brought the record in sealed covers. The record was opened in Court on the directions of the Court. There was no objection raised by the petitioner at the said time that the Register of Voters had not been brought nor was request made for deferring the cross-examination of the said witnesses in the absence of the record. All the three witnesses i.e. PW6, PW7 and PW8 appeared on 18.10.2024 and thereafter the orders of extension was passed by this Court on 27.09.2024 and 20.01.2025 in the presence of the counsel for the petitioner. Yet the present application was filed on 07.02.2025 for summoning the witnesses i.e. PW6 and PW7 with the Register of Voters Annexure-1 of EVM Order 2008 in respect of the election for the post of Sarpanch of village Mohammadpur Ahir, village Dadu and village Jafrabad, Tehsil Tauru by way of additional evidence. Learned counsel for the respondent has contended that since the petitioner did not raise the objection when the record was produced by the witnesses PW6 and PW7, now in order to fill in the lacuna the application was filed, which has rightly been dismissed by the Election Tribunal concerned.

5. Heard.

6. In the present case the election petition was filed on 21.11.2022 and issues were framed on 21.07.2023. Several opportunities were granted

as per the impugned order dated 14.02.2025 to the petitioner for leading her evidence. The petitioner examined a total of 09 witnesses and tendered various documents in evidence. The oral evidence on behalf of the petitioner was closed vide a separate order by way of statement recorded on 25.10.2024 and documentary evidence was closed on 08.11.2024. The application for additional evidence was moved at the stage of rebuttal evidence. A perusal of the application reveals that it is not a case of the petitioner that the said facts were not to the knowledge of the petitioner. Rather, the reason given is that the petitioner obtained copies of the record prior to preparing the case for final arguments and then it came to the notice of the petitioner that Register of Voters Annexure-1 of EVM Order 2008 in respect of the election for the post of Sarpanch of village Mohammadpur Ahir, village Dadu and also of village Jafrabad had not been produced by the said witnesses. The statements of the witnesses i.e. PW6 and PW7 have been appended with the petition as Annexures P-4 and P-5 respectively. A perusal of the said statements reveals that the record was brought in a sealed envelope, which was opened as per orders of the Election Tribunal. No objection appears to have been raised by the counsel for the petitioner at the time when the said evidence was tendered by the witnesses PW6 and PW7. Had it been the case where the petitioner had objected to the registers not being brought or that incomplete record was brought and the same had been overlooked by the Election Tribunal, the petitioner was well within her right to approach this Court. However, in the present case, the record was opened before the Election Tribunal and was well within the knowledge of the

counsel for the petitioner. Hence, it does not now lie in the mouth of the petitioner to say that she became aware of this fact only when she obtained copies of the record at the time when the case was being prepared for final arguments. Even otherwise, the petitioner herself had approached this Court for expeditious disposal of the election petition by filing CR-6043-2023, which was disposed off vide order dated 12.12.2023 granting 09 months' time to the Election Tribunal to conclude the proceedings. The said period was extended on two occasions by this Court, one vide order dated 27.09.2024 by 03 months and finally vide order dated 20.01.2025 for 02 months.

7. Keeping in view the fact that the record was opened in front of the petitioner and her counsel and that the petitioner was well aware of what had been produced by the said witnesses and having not raised any objection at that point of time, the application for additional evidence has rightly been dismissed as it is nothing but an endeavour to fill in the lacuna.

8. In view of the above, present revision petition stands dismissed. However, it is made clear that any observation made herein shall not be treated as an expression of opinion on merits of the case. Pending applications, if any, also stand disposed off.

01.03.2025

jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO