

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

**Civil Revision No.3935 of 2015 (O&M)
Date of Decision: September 08, 2015**

Harjinder Kumar

.... Petitioner

vs.

Sub-Divisional Magistrate and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Gurcharan Dass, Advocate for the petitioner.

Ms. Navdeep, Advocate for respondent No.2.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

CM-17470-CII-2015

Application is allowed as prayed for.

Result sheet dated 21.05.2013 as Annexure R2/1 is taken on record.

CR-3935 of 2015

Impugned in the present revision petition is the order dated 15.05.2015 (Annexure P-6) passed by learned Sub Divisional Magistrate-cum- Presiding Officer of Election Tribunal, Shahkot, District Jalandhar (in short 'the Election Tribunal'), vide which it was ordered that 89 cancelled votes are liable to be scrutinized again.

The short controversy in this case is that in the election of member of the Block Samiti, Sukhwinder Kaur(defeated candidate)

respondent No.2 herein belonging to ruling party Shiromani Akali Dal and the present petitioner Harjinder Kaur(elected candidate) belonging to Indian National Congress were candidates. On the counting of the votes, it was found that winning candidate secured 1242 votes and the defeated candidate secured 1240 votes and 89 votes were cancelled.

The Election Tribunal after hearing learned counsel for both the parties, ordered that since there is difference of only two votes, let 89 cancelled votes be scrutinized again.

After hearing learned counsel for the parties, I am of the view that recounting and scrutinizing of the votes cannot be allowed, merely to satisfy one or the other party unless there is rational behind the same. There are no findings that some votes were improperly cancelled or rejected. If there is no base, no interference in the voting process is to be allowed. Since the votes have been counted without any objection from the either party and 89 votes were cancelled, the Election Tribunal cannot be allowed to reopen the matter by scrutinizing 89 votes and alter the result.

Accordingly, the impugned order is set aside and the present revision petition is allowed.

September 08, 2015
sarita

(KULDIP SINGH)
JUDGE