

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

CR No.4108 of 2015

Date of decision : 17.11.2015

Harjinder Singh

...Petitioner

Versus

Addl. Commissioner-cum-Election Tribunal, Tarn Taran & ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Veneet Sharma, Advocate for the petitioner.

Mr. G.S. Thind, Advocate for respondent No.2.

AMIT RAWAL, J. (Oral)

Challenge in the present petition is to the impugned order dated 10.06.2015, whereby in a stereo and mechanical manner, the Presiding Officer has appointed a Committee of three persons for recounting of the votes in respect of the election held of Sarpanch of Village Barwala, Tehsil Patti, District Tarn Taran.

Mr. Veneet Sharma, learned counsel appearing on behalf of petitioner submits, that the order is cryptic and fallacious and no reasons have been assigned as the parties have yet to argue the matter on the basis of

the evidence led in support of the respective submission.

Mr. G.S. Thind, learned counsel appearing on behalf of the respondent No.2 submits, that recounting of the votes is permissible where the propriety and transparency of the election is under challenge and thus prays that there is no illegality and perversity of the order under challenge.

I have heard learned counsel for the parties and appraised the paper book.

The order read thus:-

“File was presented. Case was called. Counsel for both the parties are present. For recounting the votes of Village Barwala, Tehsil Patti, District Tarn Taran, a Three members committee comprising of (1) Asstt. Commissioner (Z), Tarn Tarn; (2) Tehsildar (Elections), Tarn Taran and (3) Superintendent (Revenue) o/o Deputy Commissioner is constituted. Presiding Officer, Returning Officer Village Barwala advised to appear in this Court on 8.7.2015 at 10.00 a.m. along with the concerned record of the election of Sarpanch. The Block Development and Panchayat, Patti is given duty that he should come present in this Court on 8.7.2015 along with the record of polling of Village Barwala, Distt. Patti, District Tarn Taran, which is deposited in their office along with the Returning Officer and Presenting Officer. File be presented again on 8.7.2015 for recounting.”

On going through the order, I am of the view that order do not assign any reasons for recounting of the votes. There has to be application of mind. Thus, in my view order is not sustainable and hereby set aside. The matter is remitted back to the Election Tribunal to decide the election petition in accordance with law as expeditiously as possible

preferably within a period of four months from the date of receipt of certified copy of the order.

It is made clear that recounting of the votes has to be done as per the ratio decidendi culled out by Hon'ble Supreme Court in *Udey Chand Vs. Surat Singh & another, 2009(10) SCC 170*.

Revision petition stands allowed.

17.11.2015

pawan

**(AMIT RAWAL)
JUDGE**