

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.5276 of 2015 (O&M)

Date of Decision.19.08.2015

Shiv Ram

.....Petitioner

Versus

Presiding Officer, Election Tribunal-cum-ADC Patiala and others

.....Respondents

Present: Mr. Hardip Singh, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers 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?

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K. KANNAN J. (ORAL)

1. Notice of motion. Mr. NPS Mann, Advocate accepts notice for the respondents. With the consent of both the parties, the case is taken up for disposal today itself.

2. The revision petition is against an interim order passed by the Election Tribunal during the course of enquiry that recounting must be done before the decision in the election petition is pronounced. This became essential in view of the evidence collected by him that pointed out to certain serious discrepancies. The particular reference was to Booth No.150 where votes had been counted and entered in Form No.9 referring to 585 as having been polled. The ultimate result was declared by the Booth Officer at Booth No.149 and therefore, the entries made in Form No.9 in Booth No.150 had been transmitted to Booth No.149 along with the votes polled in the box. The entry

contained in Form No.9 by the Booth Officer at Booth No.149 must, therefore, be a repetition of what was transmitted to him. However, the votes polled at Booth No.150 were taken as 583 and two votes were missing, only to examine one serious discrepancy which is patent on the record. The Election Tribunal has considered also the aspects of evidence given by the parties during the course of trial that some of the votes which were cancelled had not been shown to the candidates. It had prima facie material to pass an order before a final adjudication was rendered. I find the reason for ordering recount, which is an extraordinary power, was on appropriate grounds and on the basis of evidence brought before him.

3. There is also an objection about the maintainability of the election petition. The petition has been filed on 16.07.2013 and the case has progressed for trial. This cannot be brought at this stage in revision petition. I decline to entertain such a plea at this point of time. It will be open for the petitioner to take the objection at the time of final arguments of the case.

4. I find that there is no scope for interference. The revision petition is dismissed.

(K. KANNAN)
JUDGE

August 19, 2015
Pankaj*