

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

Civil Revision No.536 of 2015

Date of decision: 21.12.2015

Baldev Singh

.....Petitioner

versus

The Presiding Officer and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Jatinder Singla, Advocate for the petitioner
Mr.K.B.Raheja, Advocate for the respondent No.2
Mr.T.N.Sarup, Addl.A.G. Punjab
for the respondent No.1 and 3
Mr.B.S.Bal, Advocate for respondent No.4

- 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)

Impugned in the present revision is the order dated 5.1.2015, passed by the learned Election Tribunal (Sub Divisional Magistrate), Malerkotla, vide which, while hearing the election petition regarding the election to the post of Panch in Ward No.4, Gram Panchayat Village Tibba, recounting of votes has been ordered.

I have heard learned counsel for the parties and have also carefully gone through the file.

It comes out that in this case for the Ward No.4, the winning candidate secured 109 votes, whereas the losing candidate secured 105 votes. Therefore, the margin of victory was only 4 votes. 15 votes were stated to have been cancelled in toto in ward Nos.4, 5 and 6, the result of which was declared jointly. It is not disputed that

in this case both the parties have led evidence and that at the time of final stage, re-counting has been ordered. Admittedly, in this case, while cancelling the votes, no reasons were recorded by the Presiding Officer. Therefore, if for his personal satisfaction the Election Tribunal has ordered the re-counting of votes, this Court should slow in interfering in the exercising of such discretion.

Learned counsel for the petitioner has relied upon judgment of this Court in the case of Harvinder Singh v. Presiding Officer and others, CR No.8691 of 2014 decided on 29.9.2015. However, in the said case, it was not noticed that no reasons have been mentioned while cancelling the votes which is mandatory under Rule 33 of the Punjab State Election Rules, 1994. Therefore, said authority is distinguishable from the facts of the present case.

Learned counsel for the petitioner has also relied upon other authorities of this Court in the case of Rakhi Kaur v. Gurmail Kaur and others, 2006 (1) PLJ 613 and Deepak Sharma v. Hardeep Kaur and others, 2014(3) RCR (Civil) 235.

I am of the view that in the present case, the Tribunal has recorded the findings and for his satisfaction, he wants the the votes to be re-counted. Therefore, this Court should not interfere in the discretion exercised by the Election Tribunal.

It being so, I do not find any ground to interfere in the impugned order. The same is accordingly dismissed.

21.12.2015
gk

(Kuldip Singh)
Judge