

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

**Civil Revision No.7756 of 2014 (O&M)**

Date of decision:14.09.2015

Kabal Singh

... Petitioner

versus

Election Tribunal-cum-Additional Deputy Commissioner Mansa,  
District Mansa, and others.

.... Respondents

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

----

Present: Mr. J.P.S. Sidhu, Advocate,  
for the petitioner.

Mr. S.S. Grewal, Advocate,  
for respondents 2 and 4.

----

**K.Kannan, J. (Oral)**

1. The revision is against a direction for recounting of votes pending consideration of a challenge to election to an office of Sarpanch in gram panchayat. The elected candidate had polled 139 votes, the next candidate had 134 votes and the last candidate 113 votes. Out of the total votes polled i.e. 386, 5 have been treated as invalid and since the difference between the elected candidate and the next candidate was 5 votes, the Tribunal ordered recount.

2. This could hardly be a justification for a recount. The Tribunal has observed that recount was being ordered to satisfy the petitioner and in the interest of natural justice. On the other hand, the order could be supported only if there was an evidence that 5

votes had been wrongly taken as rejected when they ought not to have been rejected. If there was any evidence which would show that the votes treated as invalid had been wrongly so treated and the evidence had been brought at the trial before the Election Tribunal that the invalidity of votes had been done in spite of protests by any of the candidates or their poll agents at the time of counting and the Tribunal was convinced that the invalid votes reckoned had been done on a wrong basis, it could have directed a re-poll; otherwise, not.

3. The decision at an election after counting is a culmination of a democratic process and such a decision rendered cannot be easily scuttled by a whimsical order. The order cannot be justified if it were to satisfy one party. The Election Tribunal did not function to satisfy only one party. The order should satisfy the test of law. The order does not provide that satisfaction.

4. The impugned order is set aside and the civil revision is allowed. The Election Tribunal will take a decision on the basis of evidence and render a judgment in accordance with law.

**(K.KANNAN)**  
**JUDGE**

14.09.2015  
sanjeev