

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

**CR No. 8691 of 2014 (O&M)
Date of decision: 29.09.2015**

Harvinder Singh

... Petitioner

versus

Presiding Officer and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Jatinder Singla, Advocate for the petitioner.

None for the respondents.

K.Kannan, J.

The revision petition is against the order of the Election Tribunal directing the recounting of votes before a final adjudication has been made in an election petition filed by the defeated candidate. The evidence of parties have concluded and the Election Tribunal has observed that the issue of whether the counting of votes was properly done in the presence of candidates, whether the cancelled votes were counted in favour of successful candidate or whether the objections raised by some candidates were properly decided would all be required to be considered later and that before arriving at issue-wise finding, recounting would required to be done. The election Tribunal has observed that the recount of vote is a manner of preventing unnecessary prolongation of the case.

I hold the order to be untenable. A declaration of result in an election is an expression of democratic process and it cannot be lightly interfered. The strict rules of pleadings and the procedures accompanying the manner of institution of an election petition and attest to genuineness of buildings are further affirmation of the principle that a decision declared at the election will not be lightly interfered. Points

for consideration at an election petition on the objections taken about the declaration of result have to lend adequate support for the person challenging an election and only on the basis of very strong materials available, the Tribunal will order recounting of votes.

The choice of recounting to scuttle prolongation of adjudication is meaningless, for, an effective adjudication is the only guarantee against the prolongation. The matters that would be required to be decided cannot be shelved even temporarily only to accommodate a plea of recount of votes. The reasoning adopted by the Tribunal puts the cart before the horse. Without finding on the basis of evidence that there had been gross irregularities in the conduct of election or in the process of counting, the Tribunal has no jurisdiction to order a recount. The order is set aside and the revision petition is allowed.

The Election Tribunal will now proceed to give its own reasons on the basis of evidence after hearing the arguments of the respective parties and if it is satisfied that there exists any ground to suspect the declaration of results as sullied for any of the reasons established, then it may proceed to pass an order in the manner that it deems fit.

(K.KANNAN)
JUDGE

29.09.2015

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