

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

Date of decision:31.07.2015.

Neelam Rani

.....Petitioner

v.

Election Tribunal-cum-SDM Zira and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.CM Munjal,Advocate for the petitioner
Mz.Monika Chhibbar Sharma,DAG Punjab
Mr.Jagjit Singh,Advocate for respondent no.2.

Jaswant Singh,J.(Oral)

The elected Sarpanch of Gram Panchayat Hazi Betu, Block and Tehsil Gurharsahai, District Ferozepur is aggrieved by the order dated 11.5.2015(P-9) passed by the SDM-cum-Election Tribunal, Zira whereby recounting has been ordered without indicating the basis although evidence has been led by the parties.

Upon notice only the contesting respondent no.2 has filed her reply by way of CM 9431/2015 which is allowed and reply is taken on record.

It is very graciously conceded by the learned counsel for the parties that it is settled principle of law that recount cannot be permitted for a mere asking and the same has to be based on some valid reasons deducible from any material placed on record.

After hearing learned counsel for the parties it is apparent that although the entire evidence has been led by the parties, however, no reasoning for ordering such a recount has been disclosed which can substantiate the basis for such recount. Although an attempt has been made by showing that actual valid votes were 435 and the one found after result were 432 and thus there appears to be no explanation for the vanishing of three votes, however, in the light of difference of winning margin of 22 votes between the parties, such deficiency would not materially alter the result and thus providing basis for such a recount.

In view of the above the impugned order dated 11.5.2015 (P-9) is set aside with a direction to the learned Tribunal to conclude the election petition at the earliest and if need be pass a fresh order of recount clearly indicating the reasons therein in accordance with law.

Disposed of in the above terms.

31.07.2015.
joshi

(Jaswant Singh)
Judge