

112-a

FAO No.4003 of 2015 (O&M)

Date of Decision: July 06, 2015

Shamsher Kaur

.... Appellant

VS.

Charanjit Kaur and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. S.S. Ranghi, Advocate for the appellant.

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 appeal is the order dated 08.04.2015 passed by the Election Tribunal-cum-Sub Divisional Magistrate, Payal, vide which the election petition filed by the present appellant was dismissed.

Learned counsel for the appellant contends that in this case the Election Tribunal has not framed the issues. Reliance has been placed upon the authority of ***“Malkeet Kaur vs Bhupinder Pal and others”*, 2010(2) R.C.R.(Civil) 797**. However, a perusal of the authority shows that the said case was not remanded back on account of non-framing of issues but only on the ground that the respondents were not given any opportunity to lead evidence. In the present case, issues were not framed but both the parties had led their respective evidence. Under Section 81 of the Punjab State

Election Commission Act, 1994, the procedure, as nearly as contained in Civil Procedure Code is to be followed. That does not mean that Civil Procedure Code is to be followed strictly. Since both the parties had led their evidence, therefore non-framing of issues is not material.

It comes out that according to the averments as per the record, elected candidate had received 107 votes whereas the present appellant received only 27 votes.

Contention of learned counsel for the appellant is that while declaring the result the votes were inter-changed.

Learned counsel for the appellant has further argued that the recounting of the votes was objected by the opposite party.

A perusal of the order shows that the counting was done in the presence of both the parties and both the candidates had signed the election result. If the appellant had any objection regarding interchanging of the votes, she would not have signed the proceedings.

Keeping in view the huge difference of votes, there is prima facie no ground for recounting. Accordingly, I do not find any merit in the present appeal.

Hence, dismissed.

(KULDIP SINGH)
JUDGE

July 06, 2015
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