

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.868 of 2014 (O&M)

Date of decision: 21.07.2015

Gurmit Kaur

..... Appellants

versus

The Deputy Commissioner-cum Election Tribunal, Ropar and others

..... Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. Pankaj Sharma, Advocate for the appellant
Mr. R. S. Pathania, DAG Punjab for respondent No. 1 and 2
Mr. D. S. Pheruman, Advocate for respondent No. 3

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)

Challenged in the present appeal is the order dated 20.1.2014, passed by the Deputy Commissioner-cum-Election Tribunal, Rupnagar, vide which, in a petition filed by the respondent No. 3 Sharanjit Kaur, recounting was done and she was declared elected and consequently, the election of the present appellant as Panch of village Dhanauri, Block Morinda, Tehsil Chamkaur Sahib, District Ropar was set aside.

The brief facts which need to be reproduced for the purpose of disposal of appeal are that on 3.7.2013, election was held for the post of Panch from Ward No. 3 of village Dhanauri, Block Morinda, Tehsil Chamkaur Sahib, District Rupnagar. Present

appellant, namely, Gurmit Kaur as well as respondent No.3 Sharanjit Kaur contested the election. After the counting, it was found that present appellant had secured 93 votes and Sharanjit Kaur had secured 40 votes and consequently, the present appellant was declared elected as Panch. Oath was accordingly also administered to the present appellant on 7.8.2013. Sharanjit Kaur (respondent No.3 herein) challenged the election. During hearing, the Election Tribunal was of the view that matter cannot be decided without recounting of votes. There an application was also filed by the respondent that some bogus voting has been done. It also comes out from the lower court record that both the parties as well as their counsel made statements on 20.1.2014 consenting for the recounting. Recounting was done in the presence of the parties and their counsel and it was found that the present appellant had secured 38 votes only, whereas respondent No.3 Sharanjit Kaur (petitioner before the Election Tribunal) had secured 92 votes. Six votes were cancelled. Consequently, the respondent No.3 (petitioner) was declared Panch.

The contention of learned counsel for the appellant is that recounting could not be done without any reason. For this purpose reliance has been placed on the authorities of the Hon'ble Supreme Court in Kattinokkula Murali Krishna v. Veeramalla Koteswara Rao and others, AIR 2010 Supreme Court 24, Chandrika Prasad Yadav v. State of Bihar and others, (2004) 6 Supreme Court Cases 331, Preet Mohinder Singh v. Kirpal Singh, 2001(2) RCR (Civil) 647, Shri Satyanarain Dudhani v. Uday Kumar Singh and others, AIR 1993

Supreme Court 367 and P.K.K. Shamsudeen v. K.A.M. Mappillai Mohindeen and others, AIR 1989 Supreme Court 640(1). The perusal of the authorities shows that in those cases, order of recounting was challenged. In none of the cases, recounting was already done and result was announced. Therefore, the present case stands at different footing.

The learned counsel for the appellant has argued that the consent of the appellant for recounting was obtained on blank papers. I am of the view that consent is not only signed by both the parties but also by their counsel. Appellant never sought time from Tribunal to challenge order of recounting. Recounting was accordingly done. It was only thereafter when she found that she has lost, she has come up with the plea that her consent was obtained on a blank paper. Such plea is not acceptable. There is a huge margin of votes. Recounting has only brought forth the truth. There is nothing illegal if the Election Tribunal had thought that in the given circumstances, recounting is necessary.

It being so, there are no merits in the present appeal. Same is accordingly dismissed.

21.07.2015
gk

(Kuldip Singh)
Judge