

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.884 of 2015 (O&M)

Date of decision: 09.04.2015

Balwinder Singh son of Pal Singh

..... Appellant

versus

**Presiding Officer, Election Tribunal Tarn Taran-cum-Deputy
Commissioner & others**

..... Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr.N.P.S.Mann, Advocate for the appellant
Mr.Jashanpreet Singh, AAG Punjab for respondent No.1
Mr.Premjit Kalia, Advocate for respondent No.2

- 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)

In this case, election for the post of Panch, Ward No.6, Village Baba Saini Bhagat (Sohal), Block Ghandiwind, District Tarn Taran, was held on 3.7.2013. In the election, 230 votes were polled. Both the candidates were polled 112 votes each. Thereafter, it is stated that toss was done in which, the present appellant, namely, Balwinder Singh son of Pal Singh won the toss. The opposing candidate, who is his name sake, Balwinder Singh son of Mukhtiar Singh filed an election petition before the Deputy Commissioner-cum-Election Tribunal, Tarn Taran, wherein elected member Balwinder Singh appeared on some dates and filed written statement and thereafter, he absented. Thereafter, during the proceedings, the

Election Tribunal ordered the re-counting of votes for which, a committee consisting of Assistant Commissioner (J) Tarn Tarn, Tehsildar (Elections) and Superintending (Revenue) was formed. Re-counting was done on 24.12.2014. During the re-counting, 8 votes were cancelled and it was found that Balwinder Singh son of Mukhtiar Singh received 113 votes and Balwinder Singh son of Pal Singh received 109 votes. Consequently, Balwinder Singh son of Mukhtiar Singh was declared elected.

Now, Balwinder Singh son of Pal Singh has claimed that the Committee was formed contrary to the law laid down by the Superior Courts and re-counting should have been done by the Deputy Commissioner-cum-Election Tribunal himself.

I am of the view that in this case, the result depends upon the acceptance/ rejection of some of the votes. During hearing, both the parties have agreed that let re-counting of the votes be done by the Deputy Commissioner-cum-Election Tribunal, Tarn Taran himself and the result be declared which would be acceptable to both the parties.

In view of the matter, the impugned order is set aside and the Deputy Commissioner-cum-Election Tribunal, Tarn Taran is directed to hold the re-counting of votes himself on 28.4.2015 at 11.00 A.M.

Both the parties are directed to remain present in the office of the Deputy Commissioner-cum-Election Tribunal, Tarn Taran and no separate notice should be issued to them.

Entire record be returned to Deputy Commissioner-cum-

Election Tribunal, Tarn Taran. After re-counting, Deputy Commissioner-cum-Election Tribunal, Tarn Taran shall declare the result which would be binding on both the parties.

Copy of the order be sent by FAX to the Deputy Commissioner-cum-Election Tribunal, Tarn Taran.

Accordingly the appeal stands disposed of.

09.04.2015

gk

**(Kuldip Singh)
Judge**