

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

(1)

Civil Revision No.2010 of 2015 (O&M)
Date of decision: 24.2.2016

Maya Kaur

... Petitioner

Versus

The Presiding Officer, Election Tribunal-cum-SDM, Malerkotla and others

... Respondents

(2)

Civil Revision No.2024 of 2015 (O&M)

Balvir Singh

... Petitioner

Versus

The Presiding Officer, Election Tribunal-cum-SDM, Malerkotla and others

... Respondents

(3)

Civil Revision No.2051 of 2015 (O&M)

Naib Singh

... Petitioner

Versus

The Presiding Officer, Election Tribunal-cum-SDM, Malerkotla and others

... Respondents

(4)

Civil Revision No.2064 of 2015 (O&M)

Chamkaur Singh

... Petitioner

Versus

The Presiding Officer, Election Tribunal-cum-SDM, Malerkotla and others

... Respondents

CORAM: HON'BLE MR. JUSTICE K.KANNAN

Present: Mr.Sherry K. Singla, Advocate,
for the petitioners.

Mr.Vijay Kumar Chaudhary, Advocate,
for respondent No.2

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

K.KANNAN, J. (Oral)

All the aforesaid four revision petitions are against the orders of the Election Tribunal directing recounting of votes on some grounds. I shall extract the facts from Civil Revision No.2010 of 2015 and treat it as an exemplary for other orders as well. The operative part of the impugned order dated 13.2.2015 reads as under : -

“Learned counsel for both the parties have been heard and record placed on the file has been perused. In this case, the petitioner has leveled very serious allegations regarding counting and seems that real facts can only come out after re-counting of votes. In my opinion, for the correct disposal of this petition, re-counting of the votes is the right method.”

The order sets out for directing recounting in great flourish the respective contentions of the parties and extracts rule 33 of the Punjab Panchayat Election Rules, 1994 setting out the mode of recording of votes and recounting of votes. There is no finding anywhere that the Presiding Officer was convinced that there was any error or defect in the manner in which the votes were recorded or counted.

The result of election is a democratic process and declaration of result cannot be allowed to be scuttled by the mere fact that the difference in vote itself is very minimal and it would be proper to order a recount. Such an approach will be an utter travesty of justice and give premium to an irresponsible approach of not exercising quasi-judicial functions of sifting evidence brought before it in an election case.

Learned counsel refers me two judgments of this Court in two other cases, i.e., Manjeet Kaur v. the Presiding Officer and others in Civil Revision No.535 of 2015 and Baldev Singh v. the Presiding Officer and others in Civil Revision No.536 of 2015 where this Court considered that where the margin of votes was minimal, it would be proper to order recount. I am afraid I may not allow such a reasoning to prevail upon my own line of reasoning. The impugned orders passed are erroneous and are set aside. All the civil revisions are allowed.

The Election Tribunal is directed to render a finding on the basis of the evidence already collected and if it is of the view that there had been an error in the manner of how the votes were counted, it shall set out the basis of such an observation and then can order recount after setting aside the election result. It will be putting a cart before the horse if the

CR No.2010 of 2015 (O&M) and 3 connected revisions

: 4 :

Election Tribunal will direct recount and give decision later or whether the contention taken that the counting done already was correct or not.

The orders are unsupportable and hence quashed.

(K.KANNAN)
JUDGE

February 24, 2016

Paritosh Kumar