IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.6534 of 2014 (O&M)
Date of decision : 15.03.2016

Veerpal Kaur

...Petitioner

Versus

Election Tribunal, Mansa and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. V.K. Sandhir, Advocate for the petitioner.

Mr. Parminder Singh-I, Advocate for respondent No.2.

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AMIT RAWAL, J. (Oral)

This order of mine shall dispose of revision petition which is directed against the impugned order dated 17.09.2014, whereby Election Tribunal-cum-Deputy Commissioner, Mansa at the fag end of election petition ordered for recounting.

Mr. V.K. Sandhir, learned counsel appearing on behalf of petitioner submits that no reasoning, much less, cogent reasons have come forth in order for recounting whereas there are parameters for directing for recounting. In support of his contention, he has relied upon judgment of Hon'ble Supreme Court rendered in *Gursewak Singh Vs. Avtar Singh and*

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others, 2006(2) RCR (Civil) 463, and thus prays for setting aside of the order. He further submits that once the parties had led evidence, there was no occasion for recounting of the votes. Election petition should have been decided on merits.

Mr. Parminder Singh-I, learned counsel appearing on behalf of respondent submits that difference between the elected candidates and respondent was 16 votes. 34 votes were rejected. Evidence has come on record that there was erroneous rejection. It is in these circumstances, the Election Tribunal ordered for recounting and thus prays that there is no illegality and perversity rather it was prima facie case of the recounting and there is specific pleading to that effect and prays for dismissal of the petition.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is force in the submission of Mr. Sandhir. It would be apt to reproduce relevant paragraph of the impugned order:-

> *"16. After hearing the arguments of both the counsel for the parties and perusal of record on case file and the evidence lead by both the parties the issue No.1 to 3 are decide in favour of petitioner. Although, there is difference of 16 votes between the petitioner and respondent about the result, but the rejected votes are 34. The respondent No.1 has not rebutted the plea of petitioner that she was earlier she was declared with margin on 94 votes and then with 60 votes and lateron respondent No.1 was declared winner with margin of 16 votes, is also not rebutted by the respondent No.1 in evidence. Therefore keeping in view the principle of natural justice, to satisfy*

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the petitioner, there is no option to conduct the recounting of votes and by conducting the recounting the correct public opinion would also be known. Therefore it is ordered that keeping in view the prayer of the petitioner in this case recounting of votes of Sarpanch of Gram Panchayat, Bappiana, between petitioner and respondent No.1, held on 03.07.2014 shall be conducted on 26.09.2014."

On going through the aforementioned paragraph, it is evident that no reasons have come forth in ordering for recounting. The Election Tribunal cannot order for recounting at the fag end/for the sake of satisfaction of the petitioner as it would tantamounts to roving and fishing inquiry which is not permissible as per the ratio decidendi culled out by Hon'ble Supreme Court in Gursewak Singh's case (Supra). Moreover, for satisfaction of the petitioner (in election petition), Election Tribunal cannot pass such order.

Keeping in view the aforementioned facts and circumstances, impugned order is set aside. The Election Tribunal-cum-Deputy Commissioner, Mansa is directed to decide the election petition in accordance with law as it had reached the stage of arguments and not in the manner and mode as has been adopted.

Revision petition stands allowed.

15.03.2016 **(AMIT RAWAL)**
pawan **JUDGE**

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