

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

CR No. 697 of 2016 (O&M)

Date of decision: 17.02.2016

Paramjit Kaur

... Petitioner

versus

Election Tribunal Moga and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Jasmail Singh Brar, Advocate for the petitioner.

Mr. Rajesh Bhatheja, Advocate for respondent No.2.

K.Kannan, J. (ORAL)

As per office report, respondent No.3 remains unserved as he is not residing at the given address. Notice to 3rd respondent-returning officer is dispensed with.

The revision petition is brought at the instance of the candidate who was successful in the election to the post of Sarpanch. He has been declared elected by margin of two votes. The unsuccessful candidate-the 2nd respondent has filed an election petition. During the course of the trial, the Presiding officer of the Election Tribunal has passed an order permitting recount without setting out any reason but by observing cryptically that "file presented, case called, parties present and arguments of both counsel on these applications have been heard". This can hardly be a justification in order of recount.

The decision in an election is an important democratic process and the result cannot be stifled easily by an executive fiat or a quasi-judicial order unless there exists grounds that can make possible a reappraisal through a fresh recount or re-election. The order passed is unsupportable and quashed.

The counsel for the respondent pleads that there must be a direction to pass a reasoned order. The reasoning in any order is an

essential facet of natural justice and any quasi-judicial officer ought to know that such a component permeates every decision that he takes. It will be stating the obvious that the officer must give a reasoned order. If the evidence had been given by both the parties, the Election Tribunal shall examine whether grounds as set forth in the petition have been made. If there is a decision taken on the basis of evidence that there has been a serious irregularity or any one of the grounds that are required to be proved under the Act exists, he shall bring out those fallibilities and may proceed to pass an order dismissing the petition or allowing the petition and may also include a direction for recount if in his disposition he believes that evidence let in by the parties support for such a course to be undertaken. The direction for recount cannot be taken to afford a comfort zone for an Election Tribunal to abdicate its power and look for result after a fresh recount. He will not order a recount unless he is convinced that ground exists for such a course of action and averments made in the petition bring such a proof for such a direction.

The civil revision petition is disposed of on the above terms.

(K.KANNAN)
JUDGE

17.02.2016
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