

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

C.R. No.7360 of 2016

Date of decision:01.11.2016

Harjinder Singh

.....Petitioner

versus

Mehal Singh @ Mahil Singh and others

.....Respondents

Present: Ms. Sonia G. Singh, Advocate
for the petitioner.

Mr. A.P. Kaushal, Advocate
for caveator-respondent No.1.

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

Notice of motion.

Mr. A.P. Kaushal, Advocate accepts notice for respondent
No.1.

The counsel for the petitioner contends that prior to the impugned order, the petitioner had challenged the order directing recount vide C.R. No.8458 of 2015 and this Court after hearing the parties had passed the order dated 19.02.2016, disposing of the revision petition with a direction to the Election Tribunal to pass a fresh reasoned order.

She further submits that the impugned order dated 19.10.2016, which is subject of challenge in the present revision petition, is replica of the previous order as there is no compliance to the direction given by this Court on 19.02.2016. The order is lacking reasons, much less, cogent reasons. In this regard, she draws attention of this Court to the impugned order which reads as under:-

“File has been produced today. Case was called. Ld. Counsel for the parties have appeared. Heard. After hearing the arguments of the ld. counsels and perusing the statements and documents on record carefully, I have come to the conclusion that keeping in view the interest of justice to remove all types of doubts, it is required to get the recounting of votes for the post of Sarpanch. So it is ordered to recount the votes for the post of Sarpanch between the parties on 2.11.2016 at 11 A.M. in the meeting hall of the undersigned. For recounting the votes Sh. Sukhjiner Singh Tiwana Tehsildar Nabha and as assistant Sh. Khushwinder Kumar office of Kanungo, Tehsil Office Nabha are hereby deputed. If required, then they can appoint two employees of their office at their own for this purpose. Tehsildar Nabha is also directed to get the complete videography of this election process. Parties are directed to appear in the meeting hall in time of the date fixed.

Order pronounced.

-sd-

*Presiding Officer
Election Tribunal-cum-SDM, Nabha*

She also submits that in the absence of discussion of any evidence, much less, in view of the settled law, the recounting cannot be ordered at the drop of the hat, thus, urges this Court for setting aside of the impugned order.

Per contra, Mr. A.P. Kaushal, learned counsel appearing for respondent No.1 submits that the order is perfectly legal and justified. There is umpteen proof, documentary evidence as well as statements to form an opinion regarding the recounting of votes. Though there is no reflection of the same in the order impugned but the pith and substance of the order justifies the recounting. He further submits that the order for recounting is in consonance with the order passed by this Court on 19.02.2016, thus, urges this Court for confirming the order under challenge.

I have heard learned counsel for the parties, appraised the paper book and of the view that the order under challenge (supra) lacks not only cogent reasons but there is no compliance to the directions given by this Court. Once there was a specific direction to pass a reasoned order, it was incumbent upon the Presiding Officer, Election Tribunal-cum-SDM, Nabha to give detailed reasons, much less, reference to the oral as well as documentary evidence. Such type of orders passed by the quasi-judicial authorities are not sustainable in the eyes of law.

Accordingly, the impugned order is set aside and the matter is again remitted back to the Presiding Officer, Election Tribunal-cum-SDM, Nabha to decide the controversy afresh after reference to the oral and documentary evidence, much less, the contentions of the respective parties. This Court is sanguine of the fact that the same very mistake, as noticed above, would not be repeated again, failing which this Court may not be constrained to take appropriate action in accordance with law. The aforementioned exercise shall be done within a period of one month from the date of receipt of certified copy of this order.

The revision petition is disposed of with the above direction.

Copy of this order be given to the counsel for the parties under the signatures of Reader of this Court.

(AMIT RAWAL)
JUDGE

November 01, 2016
Pankaj*