

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No.8052 of 2015(O&M)
Date of decision : 03.12.2016

Dalvir Singh

...Petitioner

Versus

Presiding Officer, Election Tribunal and ors

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. M.K. Singla, Advocate for the petitioner.

Mr. Ajaib Singh, Addl. A.G., Punjab
for respondent No. 1.

Mr. Parveen Kumar Garg, Advocate
for respondent No. 2.

DARSHAN SINGH, J.

The present revision petition has been preferred against the order dated 20.11.2015 passed by the learned Presiding Officer, Election Tribunal (S.D.M.) Sangrur whereby the recounting of the votes for the election of the Sarpanch of Gram Panchayat village Gajjan Majra has been ordered.

2. It is not disputed that learned Tribunal has framed specific issue i.e. No. 2 with respect to the recounting of the votes. This fact is also not disputed that no separate application was moved by respondent No. 2 for recounting of the votes. In the absence thereof, the learned Tribunal was required to give the findings on issue No. 2 on the basis of evidence recorded by it, but without recording any finding on that issue, the recounting of the votes has been ordered.

3. Learned counsel for the parties have agreed that the impugned order dated 20.11.2015 may be set aside with a direction to the learned

Presiding Officer to pass the fresh order/findings on issue No. 2 by treating the said issue to be preliminary issue. The learned Presiding Officer has also mentioned that the recounting will be done by the Tehsildar (Election) Sangrur in the Court. That is also wrong because the recounting has to be done by the Presiding Officer himself.

4. In view of the above, the present revision petition is hereby allowed. The order dated 20.11.2015 is hereby set aside. The learned Presiding Officer, Election Tribunal (S.D.M.) Sangrur will pass the fresh order within one month from today by treating issue No. 2 as the preliminary issue on the basis of evidence already adduced by the parties.

5. The parties are directed to appear before the learned Presiding Officer on 07.12.2016. In case anyone of the parties commits default to appear before the learned Presiding Officer, he will not be entitled for any further notice and the learned Presiding Officer can proceed with the proceedings. A copy of this order be supplied dasti to learned counsel for both the parties under the signatures of Court Secretary today itself to avoid any delay.

December 03, 2016

Divyanshi

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : **Yes/No**

Whether reportable : **Yes/No**