

CR No.7786 of 2014

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

CR No.7786 of 2014

Date of decision: 30.8.2016

Sudagar Singh

... Petitioner

Versus

Deputy Commissioner, Ludhiana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.Navdeep Chhabra, Advocate,
for the petitioner.

Mr.P.S.Bajwa, DAG, Punjab

Mr.N.S.Dandiwal, Advocate,
for respondent No.2.

AMIT RAWAL, J. (Oral)

The petitioner is aggrieved of the order passed by the Election Tribunal-cum-Deputy Commissioner regarding recounting of the votes in the election petition for the post of Panch.

Mr.Chhabra learned counsel appearing on behalf of the petitioner submits that the election petition was filed on 18.7.2013 and the respondent in the election petition filed reply but there was no prayer for recounting of the votes. The election Tribunal ordered for recounting of the votes whereas onus was on the respondent to make out a case of recounting.

In support of his arguments, he relies upon the following judgments : -

1. Sadhu Singh v. Darshan Singh and another; 2006 (4) RCR (Civil) 55
2. Deepak Sharma v. Hardeep Kaur and others; 2014 (3) RCR (Civil) 235
3. Smt.Rajia alias Ratia v. Bala Devi and others; 2008 (3) RCR (Civil) 23

Learned counsel appearing on behalf of respondent No.2 submits that there is a difference of 5 votes. In order to save time, the Election Tribunal thought it fit to order recounting. The order cannot be said to be passed without jurisdiction.

I have heard the learned counsel for the parties and of the view that order under challenge is not sustainable. The respondent has to prove by leading direct and cogent evidence to make out a case for recounting as it cannot be ordered at the initial stage even if there is a difference of 5 votes. Allegation has to be proved by way of direct and cogent evidence, even if otherwise there was no prayer in the election petition for recounting but I would not delve on the merits/demerits of the election petition at this stage because it is too premature.

For the foregoing reasons, I am in agreement that the judgments cited supra, squarely applicable to the facts and circumstances of the present case. Recounting cannot be ordered at the drop of hat much less at the stage as noticed above of the election petition. Accordingly, the impugned order is set aside. The revision petition is allowed. The Election Tribunal is directed to expedite the hearing of the petition as early as possible.

(AMIT RAWAL)
JUDGE

August 30, 2016

Paritosh Kumar