

FAO No.2726 of 2014 (O&M)

Date of decision: 03.05.2016

Rekha Rani

...Appellant

Versus

Deputy Commissioner-cum-Presiding Officer Election Tribunal SAS
Nagar Mohali and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. G.S. Punia, Senior Advocate with
Ms. Harveen Kaur, Advocate
for the appellant.

None for respondents No.1 and 2.

AUGUSTINE GEORGE MASIH, J.(ORAL)

Despite service, none puts in appearance on behalf of respondent No.3, the contesting respondent.

Proceeded against *ex parte*.

In this appeal the challenge is to the order dated 21.01.2014 whereby the election petition preferred by the appellant under Section 74 of The Punjab State Election Commission Act, 1994, for the post of Sarpanch (Reserved for Scheduled Caste Lady) Village Teur, Tehsil Kharar, District SAS Nagar, has been dismissed without proceeding to decide the election petition as per the procedure prescribed under Section 81 of The Punjab State Election Commission Act, 1994.

It is the contention of learned counsel for the appellant that after the pleadings were completed, the Tribunal should have proceeded to frame the issues and thereafter, granted liberty to the parties to lead their evidence in support of their contentions. Without proceeding to do so, it has straight away decided the election petition which is in

violation of Section 81 of The Punjab State Election Commission Act, 1994. He, therefore, contends that the impugned order cannot sustain. From the pleadings of the parties, it is apparent that a triable issues have been made out by the appellant and the Tribunal should have, therefore, proceeded in accordance with Section 81 to decide the petition instead of summarily dismissing the same, which too is based upon cryptic and unjustified observations made therein.

I have considered the submissions made by learned counsel for the appellant, have gone through the impugned order and also the record which has been received and find the submissions made by learned counsel for the appellant to be fully justified which are accepted.

The impugned order being in violation of Section 81 of The Punjab State Election Commission Act, 1994 cannot sustain and is hereby set aside.

The appeal stands allowed.

Parties are directed to appear before the Tribunal on 25.05.2016.

The records as received from the Tribunal be remitted back forthwith to the Tribunal concerned.

May 03, 2016
m. sharma

(AUGUSTINE GEORGE MASIH)
JUDGE