

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

237

FAO No.3103 of 2014 (O&M)
Date of Decision: August 09, 2016

Karam Singh

...Appellant

Versus

Sh. Ram Pal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Raj Kumar Garg, Advocate
for the applicant-appellant.

Mr. D.S. Gurna, Advocate
for respondent No.2.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.9768-CII of 2014

Prayer in this application is for condonation of delay of 25 days
in filing the appeal.

For the reasons mentioned in the application which is duly
supported by the affidavit of the applicant-appellant, the present application
is allowed.

Delay of 25 days in filing the appeal stands condoned.

FAO No.3103 of 2014

Challenge in this appeal is to the order dated 31.01.2014 passed
by the Presiding Officer, Election Tribunal, Sahibzada Ajit Singh Nagar,
whereby election petition preferred under Section 76 of the Punjab State
Election Commission Act, 1994 read with Rule 50 of the Punjab Panchayat
Election Rules, 1995, for setting aside the election of Ram Singh son of
Sadhu to the post of Sarpanch of Jastna Kalan, Tehsil Dera Bassi,
District Sahibzada Ajit Singh Nagar, has been dismissed.

2. It is the contention of learned counsel for the appellant that the

order which has been passed by the Tribunal is not sustainable as the same has been passed without discussing the evidence which has been led by the parties nor has any reasons been assigned for returning the findings on the issues which have been framed. Counsel has also stated that the issues have also not rightly been framed, however, he states that in the light of the sketchy order which has been passed by the Tribunal neither referring to nor discussing the evidence which has been led by the parties, the same being a non-speaking order, cannot sustain and, therefore, deserves to be set aside.

3. On the other hand, learned counsel for respondent No.2 states that the order, as has been passed by the Tribunal is in accordance with law as reasons have been assigned by the Tribunal while coming to the conclusion and returning the findings on the issues which have been framed. He further states that it is substance and not the language and the words used in the order which should be material. He, therefore, states that the appeal being without merit, deserves to be dismissed.

4. I have considered the submissions made by learned counsel for the parties and with their assistance, have gone through the impugned order dated 31.01.2016 passed by the Election Tribunal, Sahibzada Ajit Singh Nagar.

5. A perusal of the same would show that the Tribunal has not discussed the evidence which has been led by the parties nor has any reasons been assigned while returning the findings on the issues which have been framed. As is apparent from the reading of the order that the same is totally sketchy without giving therein the details with regard to the pleadings and the evidence which has been led by the parties or discussing

the implications thereof. The order is a totally non-speaking order which does not fulfil the mandate of the statute and is unsustainable in law. No further comments are being made on the matter for the reason that this Court is remanding the case back to the Election Tribunal for fresh decision on merits.

6. In view of the above, the present appeal is allowed by setting aside the order dated 31.01.2014 passed by the Election Tribunal, Sahibzada Ajit Singh Nagar, with a direction to the Election Tribunal to pass a well reasoned and speaking order afresh on the election petition preferred by the appellant, in accordance with law.

7. Parties to appear before the Tribunal on 08.09.2016.

8. Records of the Court below be sent forthwith.

9. Since the main appeal has been allowed, the application for stay i.e. CM No.9769-CII of 2014, stands disposed of as infructuous.

August 09, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No