

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

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FAO No.1579 of 2016 (O&M)
Date of Decision: May 04, 2016

Karam Singh

...Appellant

Versus

Surinder Pal Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sumeet Puri, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.8513-CII of 2016

Prayer in this application is for permission to place on record the true translated copy of Annexure A-1.

Application is allowed.

The aforesaid document is taken on record subject to just exceptions.

CM No.5721-CII of 2016

Prayer in this application is for exemption from filing the certified copy of award and to place on record the true translation of the same.

Application is allowed.

Exemption from filing the certified copy of the award is granted and the true translated copy of the same is taken on record subject to just exceptions.

CM No.5722-CII of 2016

Prayer in this application is for condonation of delay of 49 days in filing the appeal.

Taking into consideration the details as mentioned in the present application read with the contents in CM No.8513-CII of 2016

according to which as per Annexure A-1, the copy for supply of the order passed by the Tribunal was applied for on 29.12.2015 which was prepared and received by the applicant-appellant on 11.02.2016 and thereafter the present appeal has been filed on 11.03.2016, the present application is allowed.

Delay of 49 days in filing the appeal stands condoned.

FAO No.1579 of 2016

Challenge in this appeal is to the order dated 24.12.2015 passed by the Election Tribunal, Sangrur, whereby the election petition preferred under Section 76 of Punjab State Election Commission Act, 1994, for cancellation of election of Surinder Pal Kaur-respondent No.1 to the post of Sarpanch, Gram Panchayat, village Gujran, Tehsil Sunam, District Sangrur, has been dismissed in the light of the fact that in the recount also, the votes polled in favour of Surinder Pal Kaur are higher than of appellant-Karam Singh.

2. It is the contention of learned counsel for the appellant that the election petition was preferred challenging the election and an application primarily for recount of the votes which were polled was moved, which was allowed by the Tribunal. The respondent had approached this Court by filing CR No.2678 of 2016, where this Court stayed the recount as was ordered by the Election Tribunal. However, the said revision petition was dismissed by this Court by order dated 02.11.2015. After the dismissal of the Civil Revision, recount was held, in which the appellant got 1251 votes and respondent No.1-Surinder Pal Kaur got 1259 votes and third candidate Charanjit Singh got 1010 votes, whereas 31 votes were found to be invalid

and, therefore, cancelled. He contends that in the earlier election, at the time of declaration of the result, the votes polled by the candidates were Surinder Pal Kaur got 1267, Karam Singh 1254 and Charanjit Singh 1008 with 94 votes declared invalid and, therefore, cancelled. He contends that in the earlier voting, it was shown that there were 3690 total votes polled, whereas in the subsequent recount, the number of votes have come down to 3551. He contends that in the impugned order, no reason has been mentioned as to how the cancelled votes have now been decreased and even the total number of votes polled reduced. He, thus, contends that the impugned order calls for an interference so that this aspect can be looked into.

3. I have considered the submissions made by learned counsel for the appellant and with his assistance, have gone through the impugned order.

4. The facts, as has been narrated by the counsel for the appellant, itself indicate that in the recount also, the appellant got lesser votes than the elected candidate Surinder Pal Kaur-respondent No.1. It is correct that the total number of votes polled as per the first count was much higher than the subsequent recount but in the light of the fact that no dispute has been raised by the appellant with regard to the validity of cancelled votes or non-counting of the votes which were polled, rather the appellant is satisfied with the recount, the plea with regard to cancelled votes having been reduced as also the number of total votes having been reduced, would not materially effect the result of the election as it is not in dispute that the elected candidate has got more votes than the appellant. It is correct that the Election Tribunal should have explained this reduction in total number of

votes but since the result of the election is not being materially effected, this Court is not inclined to interfere in the present appeal.

5. In view of the above, the present appeal stands dismissed.

6. In the light of the dismissal of the appeal, the application for stay i.e. CM No.5723-CII of 2016, stands disposed of as infructuous.

May 04, 2016

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**