

FAO No. 2349 of 2016 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO No. 2349 of 2016 (O&M)

Date of Decision: June 01, 2016

Joginder Kaur

...Appellant

Versus

Balwinder Kaur & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Animesh Sharma, Advocate  
for the appellant.

Mr. Rajeev Sharma, Advocate  
for respondent No.1.

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AUGUSTINE GEORGE MASIH, J. (Oral):

Mr. Rajeev Sharma, Advocate, has put in appearance on behalf of respondent No.1 and filed Power of Attorney in Court. The same is taken on record.

It is the contention of learned counsel for the appellant that the Presiding Officer, Election Tribunal, Jalandhar, while deciding the election petition vide order dated 04.04.2016, has merely relied upon the two passports to come to a conclusion that both these persons, namely, Ashok Kumar and Raj Kumar were not in India when the votes were being cast in the election held on 25.02.2015. He contends that neither any statement has been recorded nor has any opportunity been given to the appellant to cross-examine or to verify the contents of the said passports. He further states that neither any issues were framed nor was the case fixed for evidence of the defence.

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Records of the case were called for and on going through the same, counsel for respondent No.1 as well as this Court finds the assertion as made by the counsel for the appellant to be correct.

In view of the above, impugned order dated 04.04.2016 passed by the Presiding Officer, Election Tribunal, Jalandhar, cannot sustain and is hereby set aside and the case is remanded back to the Tribunal with a direction to decide the election petition afresh, in accordance with law. Parties are directed to appear before the Tribunal on 07.07.2016. Registry to ensure that the records of the Tribunal is delivered on or before 30.06.2016.

**CM No.8518-CII of 2016**

In view of the order passed in the main appeal, no orders are required to be passed in the present application for stay as the same has been rendered infructuous.

Disposed of as such.

**June 01, 2016**

*Harish*

**( AUGUSTINE GEORGE MASIH )  
JUDGE**