

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

**C.M. NOS.22723-24 CII OF 2016 &
F.A.O. NO.6620 OF 2016**

DATE OF DECISION: NOVEMBER 21, 2016

Daulat Ram

.....Appellant

VERSUS

Jaspal and others

....Respondents

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

Present: Ms. Sakshi Raheja, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.22723 CII of 2016

Prayer in this application is for condonation of delay of 45 days
in filing the appeal.

For the reasons mentioned in the application, which are duly
supported by an affidavit of the applicant-appellant, the present application
is allowed and delay of 45 days in filing the appeal stands condoned.

C.M. No.22724 CII of 2016 and F.A.O. No.6620 of 2016

Challenge in this appeal is to the order dated 18.03.2016 passed
by the Election Tribunal, Jalandhar-I, whereby election petition for setting-
aside the election of Sarpanch of Gram Panchayat of Village Gazipur held
on 03.07.2013 preferred by the appellant stands rejected.

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

appellant and his Election Agent had, at the very outset, stated that bogus votes would be polled and there will be bungling in counting of votes. She contends that three votes were polled in favour of respondent No.2, Jaspal son of Kewal Chand, which have been shown in the voter list to be of House Nos.121 to 131, which do not exist. She further contends that rather these votes, which were polled, were from Basti Danishmandan. Thus, a fraud has been committed during polling and bogus votes have been polled, resulting in the appellant loosing the election. She also contends that the appellant and his agent, at the time of election also, have raised objection, although orally, but that should not in itself be a ground for not accepting the statement as has been given before the Election Tribunal. She, thus, contends that impugned order dated 18.03.2016 passed by the Election Tribunal, Jalandhar I cannot sustain and deserves to be set-aside.

I have considered the submissions made by learned counsel for the appellant and with her assistance have gone through the pleadings and the impugned order but cannot accept, what has been asserted by her.

It is an admitted position that there are no written objections submitted by the appellant or his election agent either at the time of election or at the time of counting of votes. There is no cogent evidence brought on record, which would support the assertion that there are no House Nos.121 to 131 in Village Gazipur. In the absence of any documentary evidence on record, oral assertion as made, has rightly been not accepted by the Election Tribunal, Jalandhar I, Thus, the order as passed by the Election Tribunal, Jalandhar I, cannot be said to be without any basis or illegal, which would call for interference by this Court as the primary onus was upon the appellant to prove the assertions made by him in the election petition and to

substantiate the same. There being no evidence, except for oral, which too is unreliable, there is no illegality in the impugned order.

In view of the above, finding no merit in the present appeal the same stands dismissed.

Since the main appeal stands dismissed, C.M. No.22724 CII of 2016 for staying the operation of the impugned order is also dismissed.

**November 21, 2016
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**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No