

FAO No.7687 of 2015

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

FAO No.7687 of 2015

Date of Decision: August 31, 2016

Charanjit Kaur

...Appellant

Versus

Gurwinder Kaur & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. S.K. Arora, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (Oral):

Challenge in this appeal is to the order dated 16.06.2015 passed by the Election Tribunal-cum-Deputy Commissioner, Faridkot (hereinafter referred to as 'the Tribunal'), whereby, the election petition preferred under Section 76 of the Punjab State Election Commission Act, for setting aside the election of respondent No.1-Smt. Gurwinder Kaur wife of Baltej Singh, as Sarpanch of Gram Panchayat village Janerian, Tehsil and District Faridkot, has been dismissed.

It is the contention of the counsel for the appellant that 84 votes polled in favour of the appellant has wrongly been counted towards respondent No.1-Smt. Gurwinder Kaur. Because of this wrong counting of votes, result of the election has been altered and respondent No.1 has been declared elected with a difference of 163 votes. He challenges the order on the ground that the Tribunal has not been able to appreciate the correct

position in law based upon non-appreciation of the pleadings and evidence which has been brought on record. He states that ample evidence has been brought on record which would indicate that there has been some bungling in the counting of votes which has resulted in respondent No.1 having been declared elected who had gained less votes than that of the appellant. Prayer has, thus, been made for setting aside the impugned order and allowing the election petition as preferred by the appellant.

I have considered the submissions made by the counsel for the appellant and with his able assistance, have gone through the impugned order but do not find any illegality therein which would call for any interference by this Court.

The onus to prove the assertions as made in the election petition was upon the appellant and the basic thrust was upon the factum that there has been bungling in the counting of the votes and her 84 votes have been counted in favour of respondent No.1. The witnesses who had appeared for the appellant have, in their evidence, not asserted that there has been any bungling at the time of counting of the votes. Without there being a specific assertion in this regard, what to say in a further proof thereof, the recounting as was the plea taken could not have been accepted. There being no proof either documentary or oral which would support the assertions of the appellant, the findings as recorded by the Tribunal cannot be faulted with. The conclusions and the findings as recorded by the Tribunal being based upon proper appreciation of the pleadings and the evidence brought

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on record, do not call for any interference by this Court in the present appeal.

In view of the above the appeal being devoid of merit, the same stands dismissed.

August 31, 2016
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

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