

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

**F.A.O. No.2250 of 2015 (O&M)**

**Date of Decision: 28.11.2017**

Darshan Singh

..... Appellant

*Versus*

Harpreet Singh and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH**

Present: Mr. Munish Raj, Advocate for  
Mr. K.S.Chahal, Advocate for the applicant/appellant.

Mr. Jatinder Singla, Advocate for respondent No.1.

None for respondent Nos.2 and 3 despite service.

Service of respondent No.4 stands dispensed with,  
vide order dated 21.09.2017.

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**JASWANT SINGH, J. (ORAL)**

**CM No.6893-CII-2015**

Prayer in the present application is for condonation of 18 days' delay  
in re-filing the present appeal.

For the reasons recorded in the application, duly supported by an  
affidavit, the same is allowed. Delay of 18 days in re-filing the present appeal is  
condoned.

**MAIN CASE**

The appellant is the defeated candidate for the Office of Sarpanch,  
Gram Panchayat Duggan, Tehsil and District Sangrur, wherein Harpreet Singh  
(respondent No.1) was declared as elected in the election held on 03.07.2013. The

present appeal has been filed by the appellant-Darshan Singh challenging the order dated 22.12.2014, passed by the Presiding Officer, Election Tribunal, Sangrur (for short 'the Tribunal'), whereby his election petition challenging the election of Harpreet Singh has been dismissed.

Learned Counsel for the parties heard at length and with their able assistance, perused the original record.

It is not in dispute that the election petition has been dismissed on the ground that the same was not presented by the election petitioner himself as mandated under Section 76(1) of the Punjab State Election Commission Act, 1994 (for short '1994 Act') and, therefore, inviting the inevitable dismissal in view of the provisions of Section 80(1) of the 1994 Act.

Learned Tribunal in Para 7 of the impugned order has observed as under:-

*“ Learned Counsel for both the parties heard and evidence on record perused. From the perusal of the file that at page no.1 this petition has been presented by Shri Sandeep Arora advocate counsel for petitioner on 24/07/2013. In this respect following zimni order is passed:-*

*24/07/2013*

*Present: Shri Sandeep Arora Advocate for petitioner.*

*File produced. This petition received from Sandeep Arora advocate. Presiding officer is out of station due to busy in government duty. File will be produced before the presiding officer on 05/08/2013. Dated 24/07/2013*

*Sd/- Reader*

*From the perusal of file it is clear that at the time of filing the petition in the court the petitioner was not present and the petition has been filed by his counsel. ”*

*(Emphasis supplied)*

Learned Counsel for the appellant by referring to the reproduction of the 1<sup>st</sup> page of the election petition (**Annexure A-1**) of the paper-book has tried to show that the findings recorded by the Tribunal are incorrect, since Darshan Singh has himself presented the petition along with his Counsel. For ready reference, the said reproduction at **Annexure A-1** reads as under:-

|                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Sd/- Darshan Singh 24.07.2013</u><br><i>Present: Shri Sandeep Arora, Advocate, petitioner.</i><br><br><i>File produced today. This petition received from Sandeep Arora, Advocate. Presiding Officer is out of station being busy in government work. File will be produced on 05.08.2013 before Presiding Officer.</i><br><i>Dated : 24.07.2013      Sd/- Reader</i> | <i>Election petition under section 74 of Punjab State Election Commission Act 1994 regarding setting aside the election of respondent no.1 as Sarpanch of Gram Panchayat Duggan, Tehsil and District Sangrur, who has illegal possession over the panchayat land since long and has been shown elected with the corrupt practice and forcibly, objections were raised, beside that rules have been violated in the counting of votes, wrongly counting and declare respondent no.1 as elected, after setting aside the candidature of respondent no.1 and petitioner be declared as elected.</i> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

(Emphasis supplied)

On the other hand, Mr. Jatinder Singla, Advocate for respondent No.1 has very vehemently argued that the appellant has tried to mislead the Court by the aforesaid reproduction. He asserts that the signatures of Darshan Singh on the first page are in token of his signing the election petition on each page including the first page, therefore, the findings recorded that the petition was presented by the Counsel and not by the election petitioner himself are absolutely correct.

Upon hearing learned Counsel for the parties and perusing the record, this Court is persuaded to accept the plea on behalf of respondent No.1. A perusal of the original record not only reinforces the findings recorded, as also the argument raised on behalf of respondent No.1 but also shows that the signature of

Darshan Singh on the first page of the election petition in token of signing the page are affixed vertically whereas in the reproduced **Annexure A-1**, the same has been mischievously shown to have been fixed in a horizontal manner so as to give the impression that Darshan Singh was present at the time of presentation of the election petition. As regards the settled law that if the election petition is not presented by the election petitioner, it invites automatic rejection of the election petition in view of the provisions of Sections 76(1) and 80(1) of the 1994 Act.

The parties are not in dispute as the issue stands settled by this Court in case titled as '**Gurlal Singh Versus Presiding Officer, Election Tribunal, Block Lehra, District Sangrur and others**', 2010(5) RCR (Civil) 474 and in case titled as '**Smt. Nasib Kaur and others Versus Deputy Commissioner-cum-Election Tribunal, Hoshiarpur and others**', 2011(2) RCR (Civil) 136.

In view of the above, the present appeal is dismissed with costs of Rs.10,000/- to be paid to the District Legal Services Authority, Sangrur within two months from today, failing which, the Member Secretary, DLSA, Sangrur shall take steps to recover the same as arrears of land revenue.

Since the main appeal stands dismissed, the pending applications, if any, shall also stand disposed of.

November 28, 2017  
Gagan

(JASWANT SINGH)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |