

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

FAO No.1304 of 2016(O&M)

Date of Decision:-15.12.2017

Baljit Kaur.

.....Appellant.

Versus

**Presiding Officer, Election Tribunal-cum-Addl. Deputy Commissioner,
Amritsar & Ors.**

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. V.K. Sandhir, Advocate for Appellant.

JASWANT SINGH, J.

Appellant-Baljit Kaur-Election petitioner was the defeated candidate for the post of Sarpanch of Gram Panchayat, Village Chita Chet Singh Wala, Block Verka, Tehsil and District Amritsar conducted on 03.07.2013.

The appellant instituted an election petition on 02.08.2013 before the Election Tribunal, Amritsar challenging the election of Gurbinder Singh-respondent no.2, who was declared elected as Sarpanch. The challenge was primarily on the ground that the Presiding Officer had connived with the private respondents at the time of counting of votes and in a wrong and illegal manner cancelled the votes which were neither shown to the petitioner nor it was apprised as to what was the reason for said cancellation of votes. The Tribunal had dismissed the election petition of

the appellant on merits as well as on the ground that there was no due compliance of Section 76 (2) of the Punjab State Election Commission Act 1994, whereby the appellant-Election Petitioner had not appended signatures upon each and every page of the petition.

Learned Counsel for the appellant has argued that there is collusiveness amongst the Presiding Officer and the private respondents, which has led to wrongful cancellation of the votes casted in favour of the appellant and thus, the election of Gurbinder Singh-respondent no.2 is liable to be set aside. He has further argued that the Tribunal had wrongly dismissed the election petition of the appellant being not maintainable, on the ground that each and every page of the petition was not signed/attested.

After hearing learned Counsel for the appellant and perusing the paper book with his able assistance, this Court is of the considered view that the present appeal is devoid of any merit and deserves to be dismissed.

The learned Tribunal has appreciated the entire evidence led on record while coming to the conclusion that the alleged action of cancellation of votes was done by the Presiding Officer in the presence of her husband Punna Singh, Kulbir Singh and Sukhdev Singh. She has also admitted in her cross examination that no written application was moved by her for recounting of votes to the Deputy Commissioner or the Election Commissioner immediately. The said fact has also been admitted by other witnesses examined by the election petitioner and further, the signatures of election petition are available on the final results i.e. Ex.R-1 and R-2. Meaning thereby, the present election petition is a complete afterthought and only to harass the elected/winning candidate. As far as the legal issue of maintainability is concerned, this Court has no hesitation in holding that

the election petition was not maintainable as the same was not signed and attested by appellant on each and every page. The issue in question is squarely covered by the judgment passed by this Court in FAO No.4330 of 2015, whereby it has been held, after analysing Section 76 and 80 of the Act, 1994 as follows:-

“ As per Sub Sections 1 & 2 of Section 76 of the Act, election petition has to be presented in person by the election petitioner and has to be signed herself and copies supplied to respondents impleaded before the Tribunal are also to be signed and attested by the Election petitioner under her own signatures failing which the election petition has to be dismissed in view of provisions of Sub Section (1) of Section 80. ”

Under these circumstances, there is violation of mandatory provisions of Section 76 of the Act and as a necessary corollary the election petition has to be dismissed in view of Section 80 (1) of the Act.

The said issue is also covered by judgments passed by this Court in **2011(2) RCR (Civil) 136** Smt. Nasib Kaur & Ors. Vs. Deputy Commissioner-cum-Election Tribunal, Hoshiarpur & Ors.; Ranjit Kaur Vs. Harjinder Kaur & Ors. **2010(2) RCR (Civil) 406** and Manjit Kaur Vs. Bhupinder Kaur etc. **2013(4) RCR (Civil) 344**.

In view of the above, finding no merit in the present first appeal the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

December 15, 2017

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>