

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

(1)

**FAO No. 831 of 2014 (O&M)
Date of Decision: 13.12.2017**

Ranvir Singh

..... Appellant

Versus

Budh Ram and others

..... Respondents

AND

(2)

FAO No. 143 of 2014 (O&M)

Budh Ram

..... Appellant

Versus

Ranvir Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Ms. Aashna Gill, Advocate for
Mr. Aman Pal, Advocate
for the appellant in FAO No. 831 of 2014 and
for respondent No. 1 in FAO No. 143 of 2014.

None for appellant in FAO No. 143 of 2014 and
None for respondent No. 1 in FAO No. 831 of 2014.

Mr. N.K. Banka, Deputy Advocate General, Punjab
for official respondent Nos. 2 & 3 (in both cases).

JASWANT SINGH, J. (ORAL)

This common order shall dispose of the aforementioned two appeals as the same have arisen out of same order dated 11.12.2013 passed by the Election Tribunal, Samana, District Patiala. However, for the facility of reference, facts are being culled out from FAO No. 831 of 2014.

In the election conducted on 03.07.2013 for the office of *Panch* for Ward No. 6 of Village Bhootgarh, Tehsil Patran, District Patiala, Budh Ram/respondent No. 1 was declared as elected as *Member Panch* of the *Panchayat*, having secured 122 votes, whereas the defeated candidate Ranvir Singh/appellant secured 117 votes out of the total 248 votes polled. The rejected votes were eight (08).

Ranvir Singh/appellant filed an election petition before the Tribunal, challenging the election of Budh Ram (respondent No. 1) as *Panch*, *inter alia*, on the ground that eight (08) votes were rejected without assigning any reason, as well as no explanation for the unaccounted one (01) vote.

The election Tribunal vide impugned order dated 11.12.2013 directed the conduct of fresh recounting, while assigning the case file to record room. Consequently, both the parties i.e. the elected candidate-Budh Ram and the defeated candidate-Ranvir Singh (election petitioner) filed their respective instant appeal(s), impugning the order, ordering the recount.

Learned counsel for the parties are agreed that recounting cannot be ordered on the mere asking in view of the settled law. The basis for recounting has to be pleaded and proved before the same can be ordered, and in the present case, the order of recount does stand the test of fulfilling such parameters. The recount has been ordered without any consideration or assigning any reason. Counsel for the parties are further agreed that the order requires to be set aside and the matter be remanded back to the Tribunal for a fresh decision on merits in the election petition.

In view of the settled law and agreed stand of both the parties, both the appeals are **allowed** and the impugned order dated 11.12.2013 is set aside, with a direction to the Tribunal to proceed with the trial of the Election Petition in accordance with law and dispose of the same within three months from the date of appearance of the parties, who shall present themselves alongwith the certified copy of this order before the Tribunal concerned on **22.01.2018**.

December 13, 2017

'dk kamra'

**(JASWANT SINGH)
JUDGE**

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