

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

**FAO No.7506 of 2016 (O&M)
Decided on : 01.03.2017**

Bawa Singh

... Appellant

Versus

Balbir Singh and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Anupam Bhardwaj, Advocate
for the appellant.

G.S. Sandhawalia, J. (Oral)

CM-25582-CII-2016

The present application has been filed for condoning the delay of 112 days in filing the appeal.

In view of the averments made in the application, duly supported by the affidavit of the appellant, delay of 112 days in filing the appeal is condoned.

CM stands disposed of.

Main case

The present appeal under Section 100 of the Punjab State Election Commission Act, 1994 (for short 'the Act') is directed against the order dated 18.07.2016 whereby the Presiding Officer of the Election Tribunal has set aside the election of the appellant on the petition filed by respondent No.1-Balbir Singh under Section 76 read with Section 89 and 108 of the Act.

The appellant had allegedly been elected as Panch of Ward No.8 of Gram Panchayat, Village Jabbowal, Block Tarsika, Tehsil Baba

Bakala Sahib, District Amritsar on 31.07.2013 by the Panchayat Secretary, in spite of the fact that he had polled only 111 and respondent No.1 had polled 158 votes. Representation had also been filed to the Additional Deputy Commissioner regarding this fact and, thereafter, the election petition was filed by the said respondent.

The Election Tribunal after perusing the record and Form No.IX noticed that the votes of Balbir Singh had wrongly been shown as 58 instead of 158 votes and even Form No.IX had duly corrected by the Presiding Officer. It was, in such circumstances, it was held that Bawa Singh had only polled 111 votes and respondent No.1 had polled 158 votes. Resultantly, keeping in view the said record, the election of the appellant as Panch was set aside.

The said order is passed on the factual findings as per the record, which shows that on account of the mistakes by the officials, the respondent No.1 was badly prejudiced. The same has duly been rectified by allowing the election petition. The appellant having secured lesser votes than the respondent No.1, thus, was never entitled to be elected and, therefore, no fault can be found in the factual matrix recorded by the Tribunal.

In such circumstances, there is no merit in the present appeal and same is, accordingly, dismissed.

(G.S. SANDHAWALIA)
JUDGE

MARCH 01, 2017
Naveen

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No