

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 3494-2016 (O&M)
Date of decision: 23.02.2018

Mukesh Kumar

.....Petitioner

versus

Election Tribunal-cum-Civil Judge, Kurukshetra and another

.....Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. Jagdish Manchanda, Advocate for the petitioner
Mr. Vikramjit Singh, Advocate for respondent no.2

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision petition is the order dated 12.4.2016 (Annexure P3), passed by learned Civil Judge (Junior Division), Kurukshetra, whereby Election Petition filed by the petitioner under Section 176 of the Haryana Panchayati Raj Act, 1994, for setting aside the election of the respondent dated 10.1.2016 as Sarpanch and to declare the petitioner as a Sarpanch, was dismissed after disallowing the re-counting of votes.

Petitioner in the election petition had levelled allegations that he lost by 40 votes. He has stated that votes of counting centre of ward nos.6 to 9 were not disclosed and were taken to other centre with counting of votes of ward nos.1 to 5. Two officers incharge colluded. He pointed out the discrepancies but the application was not accepted. The trial Court framed the following issues for disposal of the election petition:-

- 1. Whether the election of respondent as Sarpanch of Gram Panchayat Sirsala Tehsil Thanesar, District Kurukshetra as*

illegal? OPP

2. Whether the issue no.1 is proved that the petitioner is entitled of the relief as claimed by him in the petition? OPP

3. Whether the present suit is barred under Section 80 CPC? OPR

4. Whether the present suit is not maintainable? OPR

5. Whether the petitioner has no locus standi to file and maintain the present petition? OPR

6. Whether the petition is bad for non-joinder and mis-joinder of the necessary parties? OPR

7. Relief

At the time of arguments, only prayer made by the petitioner is that he will be satisfied if the re-counting of votes is ordered. The trial Court has relied upon the authority in the case of M. Chinnasamy vs. K.C. Palanisamy & others, 2004 (1) RCR (Civil) 303 to hold that recounting of votes cannot be ordered for the satisfaction of the opposite candidate. In this case, Electronic Voting Machines were used. Number of total votes tallied with the votes obtained by the candidates. Therefore, it is clear that all the votes were counted. There is no ground to order recounting of votes. There is margin of 40 votes. Therefore, there is no ground to interfere in the judgment passed by learned Civil Judge (Junior Division), Kurukshetra.

Consequently, the present revision petition is dismissed.

23.02.2018

gk

**(Kuldip Singh)
Judge**

Whether speaking/ reasoned: Yes
Whether Reportable: No