

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO No.7166 of 2014 (O&M)

Date of Decision : 03.04.2018

Charana Singh

..... Appellant

Versus

Jaswinder Singh & ors.

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Balbir Singh, Advocate
for the appellant.

Mr. Harsh Aggarwal, Advocate
for respondent No.1.

Mr. Deepak Bhardwaj, Advocate
for respondent No.2.

Mr. V.K.Garg, Advocate
for respondent No.3.

Ms. Damanpreet Kaur, AAG, Punjab
for respondents No.4 & 5.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the dismissal of an election petition filed by the appellant.

The brief facts are that election to the post of Sarpanch of Gram Panchayat, Village Satauj, Tehsil Sunam, District Sangrur were held on 03.07.2013. A total of 2097 votes were polled, 66 were cancelled. The appellant obtained 988 votes while respondent No.1 obtained 1018 votes

and was declared elected. The appellant filed an election petition in which

he alleged *interalia* that votes which had been cast in his favour had been lost and invalidly cancelled by the polling staff in collusion with respondent No.1 to grant illegal benefit to him. During the election petition an agreed order was passed, as per which it was decided that the election petition would be decided on the basis of recount. It was specifically recorded that the appellant had given up the other allegations. Recount was conducted in which again respondent No.1 was declared elected and therefore, the election petition was dismissed and that is how the appellant is before this Court.

Learned counsel for the appellant has argued that one very strange thing which has happened is that 75 votes have disappeared from the ballot boxes at the time of recount and this is clear from the comparison between documents Annexure A-1 and A-4. As per him the fact that these votes are missing is a clear ground for voiding this election. Respondent No.1 has, however, argued that even after the original counting the ballot boxes were sealed in the presence of the appellant and when they were opened for recounting no objection was made by the appellant that the seals were not found intact. Moreover, even on the revised result Annexure A-4 the appellant has appended his signatures. Further in the impugned order it has been mentioned that no objection was taken to the revised result by the appellant. Apart from these arguments an argument which has been raised by the learned counsel for respondent No.1 is that the election of respondent No.1 could be set aside only if the appellant had proved a corrupt practice against respondent No.1 and merely because the votes went missing from the ballot boxes, may be as a result of negligence of the voting

respondent No.1. The last legal argument is that once the appellant had specifically withdrawn all his allegations and had agreed to have a decision of the election petition only on the basis of recounting he can not now reopen the allegation of the lost votes.

I find myself in agreement with the arguments of learned counsel for respondent No.1.

Appeal is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

03.04.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No