

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

203

**CR No.2730 of 2020
Decided on : 17.09.2021**

Baljinder Kaur

... Petitioner

Versus

Election Tribunal-cum-Sub-Divisional Magistrate, Batala and others

... Respondents

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

Present: Mr. Maneet Kumar Arya, Advocate
for the petitioner.

Ms. Ambika Bedi, AAG, Punjab
for respondent No.1.

Mr. A.S. Manaise, Advocate
for respondent No.2.

(The proceedings are being conducted through video
conferencing, as per instructions.)

G.S. Sandhawal, J. (Oral)

Challenge in the present civil revision petition filed under Article 227 of the Constitution of India is to the order dated 09.12.2020 (Annexure P-5) passed by respondent No.1. The Additional Deputy Commissioner had directed recounting of votes at the instance of respondent No.2 regarding the election of the post of Sarpanch of Gram Panchayat Village Daburji, Block Fatehgarh Churian, Tehsil Batala, District Gurdaspur which was held on 30.12.2018.

It is not disputed that the petitioner had also put in appearance before the Tribunal asking photocopy of various documents but the reply to the election petition was not filed. Constrained by the said inaction on the part of the elected candidate, directions were ordered that recounting of the votes be done. The said order was stayed by this Court on 04.01.2021.

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It has been time and again held that recounting is not to be done in a matter of routine and reliance can be placed upon the judgment passed in **Darshan Singh Vs. Deputy Commissioner-cum-Presiding Officer, Election Tribunal, 2000 (2) PLR 397** and **Gurtej Singh Vs. Darbara Singh and others, 2000 (2) RCR (Civil) 525**. In case, the reply was not being filed the Tribunal could have imposed costs upon the petitioner, but directions for recounting could not be done in a matter of routine.

In such circumstances, the said order is liable to be set aside and is ordered accordingly. Parties shall put in appearance before the Tribunal on 24.09.2021 and the petitioner shall file reply within one week thereafter. The Tribunal will thereafter take active steps for decision of the election petition expeditiously.

September 17, 2021
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No