

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-162 of 2021 (O&M)
Date of decision: 06.12.2022

Balwinder Singh

..Petitioner

Versus

Dilbag Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Rupinder Kaur Thind, Advocate
for the petitioner.

Mr. Sukhjinder Singh Behl, Advocate
for respondent no.1.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein is the elected Panch of the Gram Panchayat. In an election petition, filed under Section 76 read with Section 89 and 108 of the Punjab State Election Commission Act, 1994, his election has been challenged.

2. During the pendency of the aforesaid petition, the Presiding Judge of the Election Tribunal has passed the following order:-

“File put up. Case has been called. Dilbag Singh petitioner, respondent no.1 Balwinder Singh are present in person. The file/election petition has been perused. Respondent no.1 Balwinder Singh has denied that any irregularity has been committed during the counting of the votes and the elections and the result of the election has been conducted property, the petitioner has raised question about the procedure of the election in which he has stated that the Presiding Officer has not taken signature of either his polling agent or he was not shown when the seals of the ballot boxes were opened. The petitioner has questioned the conduct of the returning officer. Therefore, for granting justice order of recount is made. The recounting shall be made on 02.02.2021 in the Court of the undersigned and under the supervision of Tehsildar Khadoor Sahib and necessary notices be issued. The file be put on 02.02.2021.”

3. The correctness of the aforesaid order has been challenged.
4. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.
5. The learned Counsel representing the parties admit that the main election petition is at the stage of recording of evidence of the parties.
6. The order passed by the Election Tribunal is not a speaking order. The order of re-count of votes can be passed only if the Court records its satisfaction in the facts and circumstances of the case and considers the recounting of the ballot papers necessary for the proper adjudication of the election petition.
7. Keeping in view the aforesaid facts, the order dated 22.01.2021 is set aside. The Election Tribunal shall be at liberty to pass a fresh order after the parties lead their evidence. The Election Tribunal is requested to expedite the conclusion of the evidence, preferably within a period of six months, from today.
8. With these observations, the revision petition is allowed.
9. All the pending miscellaneous applications, if any, are also disposed of.

December 06, 2022

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*