

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

CR-2509-2022 (O&M)

Date of Decision: November 09, 2022

Kulvinder Kaur @ Kulwinder Kaur

...Petitioner

AND

Kiranjit Kaur and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.G.S.Punia, Senior Advocate with
Ms.Harveen Kaur, Advocate
for the petitioner.

Mr.M.J.S.Bedi, Advocate
for respondent No.1.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 05.04.2022 (Annexure P-1), passed by learned Election Tribunal-cum-Sub Divisional Magistrate.

Brief facts of the case are as follows:

Election to the post of Sarpanch was held on 30.12.2018, wherein, Kulwinder Kaur (present petitioner) had been elected as Sarpanch of Village Khanian, Tehsil and District Fatehgarh Sahib. However, to dispute the manner of conducting the election, respondent No.1-Kiranjit Kaur, filed election petition under Sections 74 to 78 of the Punjab State Election Commission Act, 1994 and Section 50 of the

Punjab Panchayat Election Rules, 1994, for setting aside the election of the present petitioner (respondent No.1 therein) as Sarpanch, wherein, in pursuance of the notice, respondent No.1 made appearance and contested the election petition. Issues were framed and evidence was adduced. When the case was fixed for arguments, present respondent No.1-Kiranjit Kaur (petitioner therein) did not make appearance and vide order dated 14.12.2021, on account of non-appearance Kiranjit Kaur, the election petition was dismissed in default.

Thereafter, only on 04.04.2022, an application was filed for restoration of the election petition and vide impugned order Annexure P-1, (vernacular whereof is at Page No.27), note was given on the headnote of the application and the election petition was restored with the remarks ***“Restored and pls issue summons”***.

The aforesaid order of restoration of the election petition had been passed without giving any notice to the present petitioner, who was respondent No.1 in the election petition and without giving any reasoning, the restoration of the election petition had been ordered, which is now under challenge in the present petition.

Learned counsel for respondent No.1 has made appearance and he also submits that respondent No.1 has no objection, if the impugned order is set aside and a direction is given to the Election Tribunal, to decide the restoration application, after giving an opportunity to the present petitioner (who was respondent No.1 before the Election Tribunal), to contest the same.

In view of the submissions, so made and looking at the period,

already passed by, vis-a-vis, outcome of the election process and also considering the very fact that the restoration of the election petition, had been ordered, without giving any reasoning, the present revision petition is hereby accepted and the impugned order is set aside and the case is remanded back to the Election Tribunal-cum-Sub Divisional Magistrate, Amloh, with a direction to decide the restoration application, after giving an opportunity to the present petitioner (who is respondent No.1 before the Tribunal), to file reply.

Parties are directed to make appearance before the Election Tribunal-cum-Sub Divisional Magistrate Amloh on 18.11.2022, who shall dispose of the restoration application, within a period of 15 days, after the parties make appearance before it and request is also made to decide the election petition, expeditiously, thereafter.

November 09, 2022
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No