



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

FAO-5753-2025 (O&M)

Date of decision : 01.12.2025

RANJIT SINGH

....Petitioner

Versus

**ELECTION TRIBUNAL-CUM-SUB DIVISIONAL
MAGISTRATE, MALOUT AND OTHERS**

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. K.B.S. Mann, Advocate for the appellant.

Mr. Rohit Bansal, Sr. DAG, Punjab for respondent No.1.

Mr. Rajinder Singh Bhatta, Advocate for respondent No.2.

Mr. Amit Jain, Sr. Advocate with
Mr. Varun Parkash, Advocate for respondent No.3.

PANKAJ JAIN, J. (ORAL)

CM No.24105-CII of 2025

Instant application has been filed under Section 151 CPC for placing on record affidavit of Sh. Jaspal Singh Brar, PCS, Sub Divisional Magistrate Gidderbaha, District Sri Muktsar Sahib.

For the reasons recorded in the application, the same is allowed.

Affidavit of respondent No.3 is taken on record.

FAO-5753-2025 (O&M)

On 26th of September, 2025 following order was passed :

“The present appeal has been preferred alleging that the recounting has been ordered yesterday without even providing the copy thereof. The recounting is in process. It has been alleged that



copy of the order has not been supplied despite having been applied for vide Annexure A-10.

Notice of motion.

Mr. Maninder Singh, Addl. A.G., Punjab appears and accepts notice on behalf of respondent No.1-State. He admits the factum of recounting being in process, however, is not able to show the order passed by the Tribunal. He prays for time to produce the same even though State was informed of the matter at 01.00 PM and the present matter has been taken now at 02.00 PM.

Adjourned to 03.11.2025.

Till further orders the Presiding Officer, Election Tribunal, Malout, District Sri Muktsar Sahib is directed to stop the recounting forthwith.

Copy of the order be conveyed to the Presiding Officer, Election Tribunal, Malout, District Sri Muktsar Sahib through Mr. Maninder Singh, Addl. A.G., Punjab.

Copy of the order be handed over to the counsel for the parties under the signatures of the Court Secretary.”

2. Affidavit of Jaspal Singh Brar, PCS, Sub Divisional Magistrate, Gidderbaha District Sri Muktsar Sahib, dated 29.11.2025 has been filed.
3. The presiding officer has tried to take refuge under the orders passed by the Revisional Court, to contend that the precise argument *qua* non-framing of issues was raised before the Revisional Court but the same did not find favour with the Court and thus, no fault can be found with the orders passed by him.
4. Counsel representing private respondent has also relied upon the same order. He has gone a step further to contend that the proper course available with the appellant was to approach the Supreme Court by impugning the orders. He contends that despite having been granted



opportunities to the appellant, he failed to lead any evidence and thus no fault can be found with the orders passed by the Tribunal. He further submits that no application was moved by the appellant before the Tribunal for framing of issues and that false allegations have been levelled against the respondents that they were hobnobbing with the politicians.

5. I have heard counsel for the parties and have carefully gone through records of the case.

6. Section 15 of the Punjab Panchayati Raj Act, 1994 provides for an election to constitute Gram Panchayat. Section 210 of the 1994 Act provides that the State Election Commission shall conduct the Panchayat elections. Punjab Government exercising power under the Punjab Panchayati Raj Act framed and notified the Punjab Panchayat Election Rules, 1994. Rule 50 provides for election petition to be filed under Section 76 of the Punjab State Election Commission Act, 1994. Section 78 of Election Commission Act, 1994 deals with contents of petition. Section 80 deals with trial of election petitions. Sections 76, 78, 80 and 81 read as under:

“76. Presentation of petition.— (I) An election petition may be presented on one or more of the grounds specified in sub-section (1) of section 89 to the Election Tribunal by any candidate to such election or by any elector within a period of forty five days from the date of election of the returned candidate or if there are more than one returned candidates at the election and there are different dates of their election, then the later of these dates shall be taken into account for this purpose.

(2) Every election petition shall be accompanied by as many copies thereof, as there are respondents mentioned In the



petition and every such copy shall be attested by the petitioner under his own signatures to be a true copy of the petition.

78. Contents of petition.-- (1) As election petition shall,—

(a) contain a concise statement of the material facts on which the petitioner relies

(b) set forth full particulars of any corrupt practice that the petitioner alleges including a statement as possible, of the names of the parties alleged to have committed such corrupt practice or practices and the date and place of the commission of such practice; and

(c) be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908, (Central Act 5 of 1908) for the verification of pleadings:

Provided that where the petitioner alleges any corrupt practice, the petition shall be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the relevant particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

80. Trial of election petitions.-- (1) The Election Tribunal shall dismiss an election petition which does not comply with the provisions of section 76 or section 77 or section 103.

Explanation.-- An order of the Election Tribunal dismissing an election petition under this sub-section, shall be deemed to be an order made under clause (a) of section 87.

(2) Where more than one election petitions are presented to the Election Tribunal in respect of the same matter, the Presiding Officer of the Election Tribunal may, in his discretion, try them separately or 'none or more groups.

(3) Any candidate not already a respondent shall, upon application made by him to the Election Tribunal within fourteen days from the date of commencement of the trial of the election



petition and subject to any order as to security for costs which may be made by the Election Tribunal] be entitled to be joined as a respondent.

Explanation-- For the purposes of this sub-section and of section 86, the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the Election Tribunal and to answer the claim or claims, as the case may be] made in the petition.

(4) The Election Tribunal may, upon such terms as to costs and otherwise, as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner, as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice which has not been previously alleged in the petition.

(5) The trial of an election petition shall, so far as is practicable consistently with the interest of justice In respect of the trial be continued from day-to-day until the conclusion, unless the Election Tribunal finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded in writing.

(6) Every election petition shall be tried as expeditiously as possible and every endeavor shall be made to conclude the trial within a period of six months from the date on which the election petition is presented to the Election Tribunal for trial.

81. Procedure before the Election Tribunal.—(1) Subject to the provisions of this Act and of the rules made thereunder, every election petition shall be tried by the Election Tribunal, as nearly as may be, in accordance with the procedure contained in the Code of Civil Procedure! 1908! (Central Act 5 of 1908) to the trial of suits:

Provided that the Election Tribunal shall have the discretion to refuse, for reasons to be recorded in writing, to examine any witness or witnesses, if it is of the opinion that the evidence of such witness or witnesses is not material for the decision of the



election petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings of the election petition

(2) The provisions of the Indian Evidence Act, 1872 (Central Act 1 of 1672) shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.”

7. In view of above, the Tribunal is obligated to follow procedure laid down in Civil Procedure Code, 1908.

8. Section 76 of the Punjab State Election Commission Act, 1994 is *pari materia* to Section 81 of the Representation of the People Act, 1951.

8.1. While dealing with the import of Section 81, Supreme Court in the case of **G.V. Sreerama Reddy & another vs. Returning Officer & others, (2009) 8 SCC 736**, observed as under:

11. Sub-section (1) has five components, (i) the qualification of the petitioner, i.e. he/she must be either "a candidate at such election" or an "elector"; (ii) the petition must be presented 'by' the petitioner; (iii) the petition must be based "on one or more of the grounds specified in sub-section (1) of section 100 and section 101; (iv) it must be presented in the High Court; and (v) it must be presented within 45 days from, but not earlier than the date of election of the returned candidate, or if there are more than one returned candidate at the election and dates of their election are different, the later of those two dates.

12. Therefore, all these five requirements are extremely specific and clear. This inference is further strengthened by Section 86(1) which provides that the "High Court shall dismiss an election petition which does not comply with the provisions of Section 81".



13. This Court, on previous occasions, had the chance to interpret Section 81(1). It must be noted that the Representation of the People Act is a special statute, and a self-contained regime. In *K. Venkateswara Rao and Anr. v. Bekkam Narasimha Reddi and Ors., (1969)1 SCR 679*, a question arose whether 45 days period provided under Section 81(1) could be condoned through the application of the Limitation Act ? After examining the relevant provisions of the Act, this Court held :

"...the Limitation Act cannot apply to proceedings like an election petition inasmuch as the Representation of the People Act is a complete and selfcontained code which does not admit of the introduction of the principles or the provisions of law contained in the Indian Limitation Act."

14. This has been reiterated in *Hukumdev Narain Yadav v. Lalit Narain Mishra, (1974) 2 SCC 133*, wherein this Court has again read the requirements under Section 81 strictly, while stating that the Act is a self-contained special statute.

15. While interpreting a special statute, which is a self-contained code, the Court must consider the intention of the Legislature. The reason for this fidelity towards the Legislative intent is that the statute has been enacted with a specific purpose which must be measured from the wording of the statute strictly construed. The preamble of the Representation of the People Act makes it clear that for the conduct of elections of the Houses of Parliament or the Legislature of each State, the qualification and dis-qualification for membership of those Houses, the corrupt practice and other offences in connection with such allegations the Act was enacted by the Parliament. In spite of existence of adequate provisions in the Civil Procedure Code relating to institution of a suit, the present Act contains elaborate provisions as to disputes regarding elections. It not only prescribes how election petitions are to be presented but it also mandates what are the materials to be accompanied with the election petition, details regarding parties, contents of the same, relief that may be claimed in the petition. How trial of election petitions are to be conducted



has been specifically provided in Chapter III of Part VI. In such circumstances, we are of the view that the provisions have to be interpreted as mentioned by the Legislature.

16. One can discern the reason why the petition is required to be presented by the petitioner personally. An election petition is a serious matter with a variety of consequences. Since such a petition may lead to the vitiation of a democratic process, any procedure provided by an election statute must be read strictly. Therefore, the Legislature has provided that the petition must be presented "by" the petitioner himself, so that at the time of presentation, the High Court may make preliminary verification which ensure that the petition is neither frivolous nor vexatious.

17. In this context, earlier decisions of this Court regarding the interpretation of Section 81(1) must be understood. In *Sheo Sadan Singh v. Mohan Lal Gautam, 1969(1) SCC 408*, in paragraph 4, this court held that :

"The High Court has found as a fact that the election petition was presented to the registry by an advocate's clerk in the immediate presence of the petitioner. Therefore, in substance though not in form, it was presented by the petitioner himself. Hence the requirement of the law was fully satisfied."

Learned counsel for the appellant submitted that even though the "form" of the provision was not followed, i.e. the petition was not presented "by" the petitioner "personally", in "substance", it was followed. It is to be noted that in Sadan Singh's case, it is not in dispute that the petition was presented to the Registry in the immediate presence of the petitioner. In other words, the officer authorised by the High Court had an opportunity to verify him but in the case on hand, admittedly, it was presented only by the advocate and the petitioners were not present before the Registrar (Judicial). In view of the same, the said decision is not helpful to the appellant's case. This is because the petitioner therein had, in substance, complied with the provision as strictly construed.



18. Learned counsel appearing for the appellants relied on a decision of the High Court of Rajasthan (Jaipur Bench) in **Bhanwar Singh v. Navrang Singh, AIR 1987 Rajasthan 63**. In the case before the learned Single Judge, the election petition had been presented by one Rajendra Prasad, Advocate and not by the petitioner himself. It was argued by learned counsel for the petitioner therein that election petition had been validly presented under Section 81 (1) of the Act because Section 81 (1) of the Act only makes a provision as to who can file an election petition and does not deal with as to who should actually present it before the Registry. It is further submitted that Section 81 of the Act nowhere provides that the petitioner should be physically present at the time of presentation of the election petition. The learned Single Judge, after adverting to the words - "by", "presented" concluded that these words used in Section 81(1) of the Act have to be given wide meaning and found that election petition filed through an advocate without the presence of candidate or elector is valid. We are unable to accept the said conclusion.

19. We have already pointed out that in spite of provisions in Civil Procedure Code and Evidence Act relating to institution of suit and recording of evidence etc. this Act provides all the details starting from the presentation of the election petition ending with the decision of the High Court. In such circumstances, it is but proper to interpret the language used by the Legislature and implement the same accordingly. The challenge to an election is a serious matter. The object of presenting an election petition by a candidate or elector is to ensure genuineness and to curtail vexatious litigations. If we consider sub-section (1) along with the other provisions in Chapter II and III, the object and intent of the Legislature is that this provision i.e. Section 81(1) is to be strictly adhered to and complied with.

8.2. While interpreting Section 76 of the Punjab State Election Commission Act, the same was relied upon by this Court in the case of

**Gurmail Kaur, Sarpanch vs. Presiding Officer and others, 2015(8)**

R.C.R. (Civil) 2012 1994, to observe as under:

3. The manner of whether presentation of the petitions through counsel was competent was considered by this court by a learned single Judge making particular reference to the judgment of the Supreme Court as well in this regard. In **Gurlal Singh v. Presiding Officer, Election Tribunal, Block Lehra, District Sangrur and others-2010(5) RCR (Civil) 474**, the court raised the point for consideration as, "Whether an election petition presented through an Advocate is liable to be dismissed under Section 80 of the Act, being in violation of Section 76(1) of the Act?" The court held after making reference to the judgment of the Supreme Court that the petition was not competent and there was no question of any waiver in the election petition of a mandatory and peremptory provision of law which has a consequence of dismissal of the election petition in case of violation. The Supreme Court's judgment referred to in the decision in Gurlal Singh(supra) is **G.V. Sreerama Reddy and another v. Returning Officer and others-2009(8) SCC 736**. That was a case relating to an objection taken on the validity of the election petition presented through counsel. We have already extracted the provisions of the Representation of Peoples Act that makes reference to presentation of the election petition. The Supreme Court was raising a question as to why the petition is required to be presented by the petitioner personally in para 16 and the court reasoned as follows:-

"16. An election petition is a serious matter with a variety of consequences. Since such a petition may lead to the vitiation of a democratic process, any procedure provided by an election statute must be read strictly. Therefore, the Legislature has provided that the petition must be presented by the petitioner himself, so that at the time of presentation, the High Court may make preliminary verification which ensure that the petition is neither frivolous nor vexatious."

It can be seen that the Supreme Court was, therefore, considering that the election petition is always serious and if a result of a



democratic process is sought to be scuttled, it has to be under an exceptional circumstance and there must be a punctilious observation of the statutory mandate. The Supreme Court held that the petition presented through advocate was not competent.

8.3. Underlining the importance of the procedure to be followed in election petition and the effect of the result of the election petition, Supreme Court in the case of '**Makhan Lal Bangal vs. Manas Bhunia**', (2001) 2 SCC 652 observed as under:

“19. An election petition is like a civil trial. The stage of framing the issues is an important one inasmuch as on that day the scope of the trial is determined by laying the path on which the trial shall proceed excluding diversions and departures therefrom. The date fixed for settlement of issues is, therefore, a date fixed for hearing. The real dispute between the parties is determined, the area of conflict is narrowed and the concave mirror held by the Court reflecting the pleadings of the parties pinpoints into issues the disputes on which the two sides differ. The correct decision of civil lis largely depends on correct framing of issues, correctly determining the real points in controversy which need to be decided. The scheme of Order 14 of the Code of Civil Procedure dealing with settlement of issues shows that an issue arises when a material proposition of fact or law is affirmed by one party and denied by the other. Each material proposition affirmed by one party and denied by other should form the subject of a distinct issue. An obligation is cast on the Court to read the plaint/petition and the written statement/counter, if any, and then determine with the assistance of the learned counsel for the parties, the material propositions of fact or of law on which the parties are at variance. The issues shall be framed and recorded on which the decision of the case shall depend. The parties and their counsel are bound to assist the Court in the process of framing of issues. Duty of the counsel does not belittle the primary obligation cast on the Court.



It is for the Presiding Judge to exert himself so as to frame sufficiently expressive issues. An omission to frame proper issues may be a ground for remanding the case for retrial subject to prejudice having been shown to have resulted by the omission. The petition may be disposed of at the first hearing if it appears that the parties are not at issue on any material question of law or of fact and the Court may at once pronounce the judgment. If the parties are at issue on some questions of law or of fact, the suit or petition shall be fixed for trial calling upon the parties to adduce evidence on issues of fact. The evidence shall be confined to issues and the pleadings. No evidence on controversies, not covered by issues and the pleadings, shall normally be admitted, for each party leads evidence in support of issues the burden of proving which lies on him. The object of an issue is to tie down the evidence and arguments and decision to a particular question so that there may be no doubt on what the dispute is. The judgment, then proceeding issue-wise would be able to tell precisely how the dispute was decided.

XXXX

XXXX

XXXX

26. An election petition is not a dispute between the petitioner and respondent merely, the fate of the constituency is on trial. xx”

(emphasis supplied)

9. Applying the aforesaid parameters to the present case, it is evident that neither the election petition was presented by the petitioner as per law nor the Tribunal bothered to frame issues. The same is evident from the order dated 11.11.2024 which reads as under:

**Sukhpal Singh V/s Ranjit Singh etc., Village Burj sidhwan
(Election Petition, Sarpanch)**

Dated: 11.11.2024

Today, this election petition of Sh. Sukhpal Singh



son of Chanchal Singh, resident of Village Burj Sidhwan, Tehsil Malout has been presented before this Court by Sh. Malkit Singh Mann, Advocate. It should be registered. Case file should be presented on 04.12.2024 for consideration on file.

Sd/-
Election Tribunal
Malout.

10. At the time of arguments, counsel for the respondents have tried to take refuge under order dated 11.09.2025 passed by this Court in CR No.4350 of 2025. The said order does not advance the cause of the respondents in any manner. The revision petition also was based upon high-headedness of the Presiding Officer of the Tribunal, who ordered recounting of votes even prior cross-examination of the witnesses. Operative part of order passed by this Court in CR No.4350 of 2025, reads as under:

11. On perusal of above noted gist of zimini orders which are not in dispute, it is clearly made out that cross-examination of witnesses have not been closed and impugned order was passed.

12. In these circumstances, I feel it appropriate to remand the case back to Election Tribunal by quashing the impugned order as evidence in support of his election petition without cross-examination of witnesses of applicant/respondent is not complete. Accordingly, impugned order dated 10.07.2025 is set aside. The matter is remanded back to Election Tribunal. The Election Tribunal shall give one opportunity to petitioner/respondent No.1 to cross-examine the witnesses. After cross-examination of witnesses the application for recounting has to be heard on merits and thereafter, on consideration of pleadings and evidence of petitioner in support of his allegations made in election petition only for the purpose of recounting, Election Tribunal shall appreciate the facts to conclude prima facie case as well as material facts stated about the irregularities in counting of votes and regarding satisfaction that no roving and fishing inquiry is



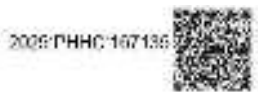
being made. The order of recounting, if ordered, shall also keep secrecy of ballot papers intact. Since present is an election petition, it would be in the interest of both the parties that entire exercise by Tribunal i.e. allowing petitioner/respondent No.1 to conduct cross-examination and to argue the matter as per material available on the plea of recounting is concluded on day to day basis within next 10 days.

13. Parties are directed to appear on 15.09.2025, before the Election Tribunal. It will be the duty of petitioner to bring his witnesses for cross-examination. Cross-examination shall be conducted on the same day, without any further adjournment. Thereafter, Tribunal shall hear arguments and conclude whether any case for recounting is made out from the allegations raised by petitioner in accordance with the parameters noted above.

11. Bare perusal of the order would reveal that the Court directed to conclude hearing within 10 days from the passing of the order and never intended that the re-count should be necessarily ordered, and thereafter, the right to appeal of the aggrieved party be scuttled. The order was passed by the Tribunal for re-count of votes on 25.09.2025 and the re-count was ordered to be held on 26.09.2025 without realizing that the statute provides for 30 days to the aggrieved party to prefer statutory appeal.

12. Even the order dated 25.09.2025 which has been placed on record by respondent No.3, shows that no satisfaction has been recorded by the Tribunal. As per settled law, the Election Tribunal was bound to record satisfaction regarding the following parameters:

- (i) *Prima facie* case;
- (ii) Material facts pleaded stating irregularities in counting of



votes; and

(iii) that a roving and fishing inquiry is not directed by way of order of re-count of votes.

13. There is nothing on record to suggest that the order was not passed as a measure of roving inquiry.

14. In view of above, this Court finds that the entire procedure followed by the Tribunal smells of bias much less illegality. Accordingly, the impugned order passed by the Tribunal is held to be unsustainable in the eyes of law and the same is ordered to be quashed.

15. Parties are directed to appear before the Tribunal on 17.12.2025.

16. The Election Tribunal shall frame proper issues based upon the pleadings of the parties. Both the parties shall be granted **three** effective opportunities to lead their entire evidence.

17. Based thereupon, the Tribunal shall decide and adjudicate upon the rights of the parties, in accordance with law.

18. The entire exercise be conducted and carried out before **30th of August, 2026**. The Presiding Officer is advised to be more careful in following the law while donning the hat of arbitrator/adjudicator.

19. The instant appeal is disposed off accordingly.

20. Pending application, if any, shall also stands disposed off.

December 01, 2025

(Pankaj Jain)
Judge

Dpr

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No