



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

CR-6011-2025 (O&M)

Reserved on : 16.04.2026

Pronounced on: 28.04.2026

Uploaded on : 29.04.2026

Kavita

...Petitioner

V/s

Suman Devi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Argued by: Mr. Vikram Singh, Advocate, for the petitioner.

Dr. Pankaj Nanhera, Senior Advocate with
Mr. Anurag Mor, Advocate
for respondent no. 1.

VIKRAM AGGARWAL, J.

The instant revision petition, preferred under Article 227 of the Constitution of India, assails the judgment and decree dated 19.08.2025 passed by the Court of Additional District Judge, Fatehabad, allowing the appeal filed against the judgment and decree dated 26.03.2025, (Annexure P-7) passed by the Court of Civil Judge, Junior Division, Tohana, District Fatehabad, vide which the election petition filed by respondent No. 1 had been dismissed, thereby allowing the election petition.

2. The facts, as emanating from the revision petition, are that pursuant to notification dated 28.10.2022 (Annexure P-1), the petitioner (Kavita) and respondent No. 1 (Suman Devi) had contested election for the post of Sarpanch of Village Kanheri (Tehsil Tohana, District Fatehabad) on 25.11.2022.

3. The petitioner was declared elected, having defeated respondent

no.1 by a margin of 52 votes.

4. Respondent no.1 instituted an election petition (Annexure P-2), challenging the election of the petitioner. Although several grounds were raised, it was primarily averred that the petitioner's name did not appear in the final voter list issued by the Returning Officer, rendering her election illegal, null and void. It was also alleged that various irregularities and illegalities occurred during polling and counting of votes. It was further averred that the authorities had accepted the nomination papers of the petitioner illegally and the result had also been declared illegally without showing the seals of EVM machines and without counting of votes properly before respondent No.1. Allegations of wrongful voting by way of impersonation and bogus votes having been cast were also levelled.

5. The election petition was opposed by way of a written statement (Annexure P-3) wherein certain preliminary objections regarding maintainability, estoppel, cause of action etc. were raised. On merits, all averments were denied. A separate written statement (Annexure P-4) was filed by the official respondents wherein also all averments were denied.

6. Vide judgment and decree dated 26.03.2025 (Annexure P-7), the election petition was dismissed by the Court of Civil Judge, Junior Division, Tohana. Aggrieved by the same, an appeal (Annexure P-8) was preferred which was allowed by the Court of Additional District Judge, Fatehabad vide judgment and decree dated 19.08.2025 (Annexure P-9), leading to the filing of the instant revision petition.

7. Learned counsel for the parties were heard.

8. It was strenuously urged by learned counsel for the petitioner that the First Appellate Court had gravely erred in allowing the appeal and setting aside the well-reasoned judgment passed by the trial Court.

Reference was made to the findings recorded by the First Appellate Court and it was submitted that without there being any specific pleadings and evidence, the First Appellate Court came to a conclusion that the affidavits submitted along with the nomination were forged and fabricated documents and had been affixed after the filing of the nominations. It was submitted that without there being any pleadings or evidence on record as regards the said fact, no such finding could have been recorded. It was also submitted that the election petition was bad on account of non-joinder of all necessary parties, as all contestants were not impleaded.

8.1 It was argued that it is well settled that the trial of an election petition is entirely different from the trial of a civil suit and that there has to be strict proof of pleadings. It was also submitted that the statutory requirements relating to election law have to be strictly adhered to for the reason that an election dispute is a statutory proceeding unknown to the common law and thus the doctrine of equity, etc. does not apply in such disputes.

8.2 Learned counsel also referred to Rules 26, 27 and 30 of the Haryana Panchayati Raj Election Rules, 1994, (hereinafter referred to as “the 1994 Rules”), and Section 163 of the Haryana Panchayati Raj Act, 1994, (hereinafter referred to as “the 1994 Act”). It was argued that the issue of forged or mismatching of signatures should have been agitated at the time of acceptance of the nomination and not at a subsequent stage. It was also submitted that as per Rule 26 of the 1994 Rules, no affidavit was required to be submitted and the information could have been submitted even on a plain paper.

8.3 Referring to Rule 30, it was submitted that had any objections been filed, the same would have been decided at the relevant stage and the

subsequent objections were only the result of an afterthought.

8.4 Learned counsel also submitted that the First Appellate Court placed undue reliance upon the opinion of the handwriting expert, whereas it is well known that the science of comparison of handwriting is not a very perfect science.

8.5. It was argued that even otherwise, there was no occasion for the petitioner to have filed forged affidavits in support of the nomination form. In support of his contentions, learned counsel placed reliance upon the judgments of the Supreme Court in *Kalyan Singh Chouhan vs. C.P. Joshi*, 2011 AIR Supreme Court 1127, *Arikala Narasa Reddy vs. Venkata Ram Reddy Reddygari and another*, 2014 AIR Supreme Court 1290 and *The National Textile Corporation Ltd. Vs. Naresh Kumar Badrikumar Jagad and others*, (2011)12 SCC 695.

9. *Per contra*, learned senior counsel for respondent No. 1 submitted that there is no illegality in the decision of the First Appellate Court.

9.1 It was argued that it had duly been pleaded in the election petition that the nomination form had been illegally accepted by the Returning Officer. Learned senior counsel submitted that the report of the handwriting expert was very specific that the signatures on the affidavits submitted with the nomination form were not that of the petitioner. Learned counsel referred to the election petition and the evidence led on the record of the case to submit that the decision taken by the First Appellate Court does not call for any interference.

9.2 Learned Senior counsel also submitted that all contestants were not required to be impleaded as the First Appellate Court did not grant the relief of ordering the election of respondent No. 1 as Sarpanch.

9.3 Learned Senior Counsel referred to the decisions of the trial court as well as the First Appellate Court in detail and submitted that no interference is called for in the decision of the First Appellate Court.

10. I have considered the submissions made by learned counsel for the parties.

11. Before advertng to the merits of the case, it would be apposite to have a look at the statutory provisions.

Section 176 of the 1994 Act deals with determination of validity of election. It provides for an election petition to be instituted within thirty days after the date of the declaration of results of the election. It, thereafter, lays down as to who would be joined as respondents. The provision then lays down the procedure of holding an enquiry by the civil Court. Section 176 reads as under:-

“176. Determination of validity of election enquiry by judge and procedure.-- (1) If the validity of any election of a member of a Gram Panchayat, Panchayat Samiti or Zila Parishad or '[-] Sarpanch of Gram Panchayat, Chairman or Vice-Chairman, President or Vice-President of Panchayat Samiti or Zila Parishad respectively is brought in question by any person contesting the election or by any person qualified to vote at the election to which such question relates, such person may at any time within thirty days after the date of declaration of results of the election, present an election petition to the civil court having ordinary jurisdiction in the area within which the election has been or should have been held, for the determination of such question.

(2) A petitioner shall not join as respondent to his election petition except the following persons :-

(a) where the petitioner in addition to challenging the validity of the election of all or any of the returned candidates claims a further relief the he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner and where no such further relief is claimed, all the returned candidates;

(b) any other candidate against whom allegations of any corrupt practices are made in the election petition.

(3) All election petitions received under sub-section (1) in which the

validity of the election of members to represent the same electoral division is in question, shall be heard by the same civil court.

(4)(a) If on the holding such inquiry the civil court finds that a candidate has, for the purpose of election committed a corrupt practice within the meaning of sub-section (5), he shall set aside the election and declare the candidate disqualified for the purpose of election and fresh election may be held.

[(aa) If on holding such enquiry the Civil Court finds that-

(i) on the date of his election a returned candidate was not qualified to be elected;

(ii) any nomination has been improperly rejected; or

(iii) the result of the election, in so far as it concerns a returned candidate, has been materially affected by improper acceptance of any nomination or by any corrupt practice committed in the interest of the returned candidate by an agent other than his election agent or by the improper reception, refusal or rejection of any vote or the reception of any vote which is void or by any non-compliance with or violation of the provisions of the Constitution of India or of this Act, or any rules or orders made under this Act.

election of such returned candidate shall be set aside and fresh election may be held.]

(b) If, in any case to which clause (a) or clause (aa)] does not apply, the validity of an election is in dispute between two or more candidates, the court shall after a scrutiny and computation of the votes recorded in favour of each candidates, declare the candidates who is found to have the largest number of valid votes in his favour, to have been duly elected:

Provided that after such computation, if any, equality of votes is found to exist between any candidate and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been received in the favour of such candidate or candidates, as the case may be, elected by lot drawn in the presence of the judge in such manner as he may determine.

(5) A person shall be deemed to have committed a corrupt practice-

(a) who with a view to induce a voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury to any person; or

(b) who, with a view to induce any person to stand or not to stand or to withdraw or not to withdraw from being a candidate at an

election, offers or gives any money or valuable consideration or holds out any promise or individual profit or holds out any threat of injury to any person; or

(c) who hires or procures whether on payment or otherwise, any vehicle or vessel for the conveyance of any voter (other than the person himself, the members of his family or his agent) to and from any polling station.

Explanation 1.- A corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation 2.- The expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise.

(6) Any person, aggrieved by an order passed by the civil court under sub-section (4), may within a period of thirty days from the date of such order, prefer an appeal to the District Judge having ordinary jurisdiction in the area. The District Judge may after hearing the appeal, confirm, vary or reverse the order. The decision of the District Judge shall be final."

Rule 26 deals of the 1994 Rules deals with nomination of candidates. Rule 27 deals with presentation of nomination papers and Rule 30 deals with scrutiny of nomination.

12. In so far as the law on the subject is concerned, the Apex Court held in the case of **Kalyan Singh Chouhan** (supra) that the trial of an election petition is entirely different from the trial of a civil suit. It was held that in a civil suit, trial commences on framing of issues while in an election petition, the trial encompasses all proceedings commencing from the filing of the election petition up to the date of the decision. It was held that the procedure provided for the trial of a civil suit under the Civil Procedure Code, 1908 is, therefore, not applicable in its entirety to the trial of an election petition. It was also held that during the trial of an election petition, it is not permissible for the court to permit a party to seek a roving enquiry.

It was held that the party must plead the material facts and adduce evidence to substantiate the same so that the Court may proceed to adjudicate upon that issue. Paragraphs 10 and 14 of the said judgment state as under:-

“10. In Kailash v. Nanhku & Ors., 2005(2) RCR (Civil) 379, this Court held that the trial of an election petition is entirely different from the trial of a civil suit, as in a civil suit trial commences on framing the issues while trial of an election petition encompasses all proceedings commencing from the filing of the election petition up to the date of decision. Therefore, the procedure provided for the trial of civil suits under Civil Procedure Code is not applicable in its entirety to the trial of the election petition. For the purpose of the election petition, the word 'trial' includes the entire proceedings commencing from the time of filing the election petition till the pronouncement of the judgment. The applicability of the procedure in Election Tribunal is circumscribed by two riders: firstly, the procedure prescribed in Civil Procedure Code is applicable only "as nearly as may be, and secondly, the Civil Procedure Code would give way to any provisions of the Act or any rules made thereunder. Therefore, the procedure prescribed in Civil Procedure Code applies to election trial with flexibility and only as guidelines.

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14. During the trial of an election petition, it is not permissible for the court to permit a party to seek a roving enquiry. The party must plead the material fact and adduce evidence to substantiate the same so that the court may proceed to adjudicate upon that issue. Before the court permits the recounting, the following conditions must be satisfied:

- (i) The Court must be satisfied that a prima facie case is established;*
- (ii) The material facts and full particulars have been pleaded stating the irregularities in counting of votes;*
- (iii) A roving and fishing inquiry should not be directed by way of an order to recount the votes;*
- (iv) An opportunity should be given to file objection; and*
- (v) Secrecy of the ballot requires to be guarded.*

(Vide: Dr. Jagjit Singh . Giani Kartar Singh & Ors., AIR 1966 Supreme Court 773; Suresh Prasad Yadav v. Jai Prakash Mishra & Ors., AIR 1975 Supreme Court 376; M. Chinnasamy v. K.C. Palanisamy & Ors., 2004(1) RCR (Civil) 303; Chandrika Prasad Yadav v. State of Bihar & Ors., 2004(2) RCR (Civil) 568; Tanaji Ramchandra Nimhan v. Swati Vinayak Nimhan, AIR 2006 Supreme Court 1218; Gursewak Singh v. Avtar Singh & Ors, 2006(2) RCR (Civil) 463 and Baldev Singh v.

Shinder Pal Singh & Anr., 2006(4) RCR (Civil) 891: (2007)1 SCC 341.”

13. In the case of **Arikala Narasa Reddy** (supra), it was held by the Apex Court that all technicalities prescribed/mandated in election law have been provided to safeguard the purity of the election process and Courts have a duty to enforce the same with all rigours and not to minimize their operation. The observations of the Apex Court in paragraph 7 of the said judgment are required to be quoted;

“7. It is a settled legal proposition that the statutory requirements relating to election law have to be strictly adhered to for the reason that an election dispute is a statutory proceeding unknown to the common law and thus, the doctrine of equity, etc. does not apply in such dispute. All the technicalities prescribed/mandated in election law have been provided to safeguard the purity of the election process and courts have a duty to enforce the same with all rigours and not to minimise their operation. A right to be elected is neither a fundamental right nor a common law right, though it may be very fundamental to a democratic set-up of governance. Therefore, answer to every question raised in election dispute is to be solved within the four corners of the statute. The result announced by the Returning Officer leads to formation of a Government which requires the stability and continuity as an essential feature in election process and therefore, the counting of ballots is not to be interfered with frequently. More so, secrecy of ballot which is sacrosanct gets exposed if recounting of votes is made easy. The court has to be more careful when the margin between the contesting candidates is very narrow. "Looking for numerical good fortune or windfall of chance discovery of illegal rejection or reception of ballots must be avoided, as it may tend to a dangerous disorientation which invades the democratic order by providing scope for reopening of declared results". However, a genuine apprehension of mis-count or illegality and other compulsions of justice may require the recourse to a drastic step.”

14. It is also well settled that civil disputes are based upon pleadings and the evidence led in support of the pleadings and no one is permitted to go beyond pleadings.

15. Reverting to the facts of the case, the election of the petitioner

was challenged on various grounds. Paragraphs 5 to 9 of the election petition state the said grounds:-

5. *That the respondent No. 1 had also filed of nomination paper for the post of Sarpanch but her name was not shown in the final voter list issued by respondent No. 2 and the respondent No. 1 had contested the election for the post of Sarpanch of village Kanheri, which held on 25-11-2022 with collusion of respondents No. 2 to 4.*

6. *That the present petition has been filed to set aside the declaration of sarpanch to respondent No. 1 as the officers of respondent authorities, who conducted the election has accepted nomination paper of respondent No. 1 illegally and declare the result of Sarpanch illegally as without showing the seals of EVM machines & Record therein and without counting of votes properly before petitioner.*

7. *That there were some irregularities and illegalities during polling of votes & counting of votes, which ignored by the officers of respondent No. 2 to 4 and all the respondents in connivance with each other delared the respondent No. 1 as winner in violation to the provisions of Haryana Panchayati Raj Act, 1994 & provisions of the Haryana Panchayati Raj Election Rules, 1994. The respondent No. 2 & 3 in connivance with respondent No. 1 had allowed wrongful voting initially by impersonating the genuine voters and for the dead voters.*

8. *That it has come to the knowledge of the petitioner that some bogus votes have been cast in the present village. The alleged allegation of various violations as intimated to Returning Officer but no enquiry was marked or cross checked before declaration of result, therefore, the declaration of result is complete violation to the provisions of Haryana Panchayati Raj Act, 1994 & provisions of the Haryana Panchayati Raj Election Rules, 1994, thus the Hon'ble Court/Tribunal declare this election for Sarpanch of village Kanheri to be null & void.*

9. *That the petitioner has secured more valid votes than respondent No. 1, but her votes in the result sheet has been shown less than respondent No. 1 and all the relevant election record/documents/forms/ EVM machines used in the election of sarpanch Kanheri be summoned and rechecked and EVM machines be reopened, in the Hon'ble Court, in the presence of petitioner and polled votes should be recounted and checked with marked voter list.”*

16. The election petition was dismissed by the trial court, holding that none of the grounds stood proved. The first appellate Court however set aside the findings by holding that the nomination paper was not

accompanied by affidavits and that forged affidavits were subsequently filed.

The findings are required to be quoted;-

“14. It is submitted by the learned Advocate for the appellant that at the time of filing of nomination papers, a candidate is required to furnish affidavit regarding good character as well as an affidavit regarding the fact that there is no arrears of due pending against the candidate. It is submitted that the respondent No.1 furnished affidavits Ex.DW1/A, Ex.DW1/B and Ex-DWI/C on which the signatures of respondent No.1 are forged and have not been appended by her. It is submitted that it is crystal clear that the said affidavits were later on affixed with the nomination papers of respondent No.1 which was initially filed without the affidavits. This contention of the learned Advocate for the appellant is worth merit. The affidavits Ex. DW1/A, Ex. DW1/B and Ex.DW1/C on which the signatures of respondent No.1 are appended are in fact not her signatures which is evident from the report Ex.PI given by Handwriting and Finger Print Expert Paras Malik, who appeared in the witness box as PW2. Although PW2 was duly cross-examined at length, but nothing could come out to impeach his testimony. PW2 categorically opined in report Ex.P1 that the signatures on affidavits alleged to be that of respondent No.1 do not match with her specimen signatures. The photographic chart Ex.P2 also clearly reveals that the formation of signatures on affidavit is entirely different from the formation of signatures of respondent No.1 which are her specimen signatures. This fact clearly proves that the respondent No.1 filed nomination papers without an affidavit and that her nomination was liable to be rejected by the respondents. It is also evident that instead of rejecting the candidature of respondent No.1, the respondent No.2 took the affidavits Ex.DW1/A, Ex.DW1/B and Ex.DW1/C with the forged signatures of respondent No.1. Since the signatures of respondent No.1 are proved to be forged on affidavits Ex.DW1/A, Ex.DW1/B and Ex.DW1/C, it is evident that the candidature of respondent No.1 was liable to be rejected and that she wrongly contested the elections of Sarpanch on the basis of forged affidavits.

15. Section 176 of Haryana Panchayati Raj Act clearly lays down that if the nomination of any returned candidate is improperly accepted, the election of such returned candidate shall be set aside and fresh election may be held. In the present case, it is proved by sufficient and cogent evidence that the nomination of respondent No.1 was liable to be rejected as she did not furnish affidavits in support of nomination and the affidavits provided later on did not bear her signatures. Since her nomination was improperly accepted by respondent No.2, the election of

respondent No.1 as Sarpanch of village Kanheri is liable to be set aside. As far as the declaration of appellant as Sarpanch of village Kanheri is concerned, it is evident that once the election of returned candidate is set aside on the ground of improper acceptance of his nomination, fresh election should be conducted. Therefore, the appellant cannot be declared as Sarpanch and the proper course is to hold fresh election for the post of Sarpanch of village Kanheri.

16. In the light of above discussion, this Court is of the considered view that the election of respondent No.1 as Sarpanch of village Kanheri is liable to be set aside. The findings of the learned trial Court on issue No.1 are illegal, perverse, against law and facts and are liable to be set aside. The Point for Determination is decided in favour of the appellant.”

17. In the considered opinion of this Court, a manifest error was committed by the first appellate Court in allowing the appeal and consequently, the election petition.

18. A bare perusal of the election petition shows that except for a solitary line that the nomination paper had not been properly accepted, nothing else was stated. In paragraph 6, it was only stated that the officers of the respondent authorities, who had conducted the election, had accepted the nomination paper of respondent No.1 (therein) illegally. No details of the illegality were given. It was not stated that the nomination paper was not accompanied by an affidavit. No evidence was led to prove that when the nomination paper had been filed, it was not accompanied by an affidavit. Based upon the report of the handwriting expert, the first appellate Court came to the conclusion that the affidavit had been filed subsequently and that the same was forged as it did not contain the signatures of the petitioner. The first appellate Court did not specify as to from where, it had arrived at a conclusion that when the nomination paper was filed, it was not accompanied by an affidavit. No objections were filed at the time of filing of the nomination in accordance with the 1994 rules.

19. The first appellate Court also did not consider the fact that the report of the handwriting expert is of advisory value and the science of examination of handwriting is not a perfect science. Not only this, the respondent had also claimed the relief that she should be declared to be elected. Under the circumstances, in terms of the provisions of Section 176 of the 1994 Act, all contesting candidates should have been impleaded as parties and the impleading of only the returned candidate was not sufficient. None of the Courts examined this issue.

20. The first appellate Court also did not consider the fact that an election cannot be set aside on the mere asking of another contesting party. Another fact which has come on record is that even during the pendency of the election petition, recounting was done in which also no error was found.

21. If the matter is examined in its totality, it emerges that the first appellate Court allowed the appeal without giving cogent reasons and without examining the matter from the correct perspective.

22. In view of the discussion in the preceding paragraphs, this Court is of the considered the opinion that the decision of the first appellate Court is not sustainable.

23. That being so, the instant revision petition is allowed. The judgment and decree dated 19.08.2025 (Annexure P-9) passed by the first appellate Court is set aside and the judgment and decree 26.03.2025 (Annexure P-7) passed by the trial Court is restored.

Pending application(s), if any, also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

Reserved on: 16.04.2026

Pronounced on: 28.04.2026

vcgarg	Whether speaking/reasoned	Yes/No
	Whether reportable	Yes/No