



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

S.No.223

FAO-523-2025 (O&M)

Date of Decision : 01.08.2025

Sarbjeet Kaur

... Appellant

Versus

Kamaljit Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Arvind Mittal, Advocate with
Mr. Sarvjeet Singh Thakur, Advocate,
for the appellant.

Mr. Jagmohan Ghumman, Advocate,
for respondent No.1.

Mr. Ishan Kaushal, AAG, Punjab,
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

Challenge is to the order dated 12.11.2024 passed by Election Tribunal, Sri Anandpur Sahib whereby the election petition filed by the appellant stands dismissed.

2. In State of Punjab, election to Panchayats were held on 15.10.2024. The appellant and respondent No.1 contested for the post of Sarpanch of Gram Panchayat Village Khattana, Tehsil Noorpur Bedi, District Roopnagar. Out of total 238 votes, 205 votes were polled. Appellant secured 99 votes. The elected candidate i.e., respondent No.1 polled 104 votes. Appellant filed election petition under Section 76 of the Punjab State



Election Commission Act, 1994 challenging the election of respondent No.1.

The election petition has been dismissed vide impugned order.

3. Counsel for the appellant submits that the election petition was filed on 29.10.2024. The respondents were summoned for 12.11.2024 and the impugned order was passed on the same day. He submits that not only was the procedure not followed, but the order has been passed in most callous manner, which does not behove of legal authority, that too, deciding the election petition.

4. Counsel for the respondents, on the other hand, refers to the impugned order to submit that evidently, the appellant stated before the Tribunal that the election petition has been filed on the basis of doubt and in terms of Section 83 of Punjab State Election Commission Act, 1994, the same was not maintainable to conduct an enquiry to allay the apprehension.

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

6. In order to appreciate the contentions raised by rival counsels, it will be apt to peruse the impugned order. The same reads as under:

“After receiving the petition, a notice was issued to the other party. On which respondent No.1 and respondent No.2 appeared. On 12.11.2024, during the preliminary hearing of the case, the petitioner party was asked, in the presence of the PRO and the other party, whether she or her counting agent was present when the votes were counted, then she told that the representative was present during the counting. The PRO told that both the parties have signed the counting and the counting was done in the presence of both the parties. During the course of hearing, the



petitioner party told that the respondent No.2 has done its work honestly and impartially. During the course of hearing, the petitioner party told that the work of counting the votes was done correctly. Due to that doubt, this petition has been filed.

The case was perused. Both the candidates and the PRO were heard for the election of Sarpanch. The petitioner has not attached any evidence/paper/document in her petition, which would indicate that there was any kind of negligence in the counting of votes or in the election process. It is not enough to say for the purpose of filing a petition that fake votes were cast or were cast incorrectly and the counting of votes was not done in front of them. Whereas on the contrary, if any voter had come to the booth to cast fake votes, the polling agent present at the booth would have objected to the same on the spot. If there was a wrong vote, then the objection should have been raised on the spot. It is not stated anywhere in the election petition that the work was not done properly by the PRO.

It is clear from all the above facts and circumstances that since the petitioner has lost this election, therefore, this election petition has been filed only with the intention of not accepting defeat and with the intention of embarrassing the candidate elected by the people by directly giving more votes. Therefore, keeping in view all this fact in mind and in view of the statement of the petitioner, it does not seem necessary to take any further action on this election petition, the same be filed in the office. Order pronounced. After due compliance, the file should be consigned in the record room.

7. From order itself, it is clear that the election petition was dismissed on 12.11.2024 i.e. the day fixed for appearance of the respondent merely on the claim of 'PRO' that he counted the votes honestly and impartially. Even the statement of PRO was not recorded. 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. Section 81 provides for procedure to be followed by the Election Tribunal. Section 80 and Section 81 read as under:

“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.”



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

9. 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.

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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)

10. From the perusal of the order, it is clear that leave aside framing of issues, the Tribunal did not even bother to call for response from the respondent. Tribunal proceeded to decide the election petition as if he was resolving a trivial dispute without realizing that he was dealing with democratic rights of the parties. The order is bereft of application of mind. Neither the response has been called for nor issues have been framed. No evidence was recorded. The election petition has been adjudicated by passing a callous order. It is while noticing similar conduct of Election Tribunal that Division Bench of this Court in the case of ‘**Sham Lal vs.**



State Election Commission', (1997) 1 RCR (Civil) 82 painfully observed as under:

“19. Before parting with the case we would like to enter a caveat on the desirability of constituting the Tribunals by appointing members of Indian Administrative Service or Provincial Civil Service or Class I officers of the State Government. We do not wish to suggest even for a moment that officers of these cadres cannot adjudicate the dispute relating to the election but want to point out that lack of time available at the disposal of such officers and absence of their continued association with judicial work results in passing of wholly inappropriate orders by them which give rise to unnecessary litigation in the higher Courts. There is no necessity to emphasise in detail the obvious difference between the bent of mind of judicial officers on the one hand and the administrative officers on the other hand. Officers belonging to the former class have to keep themselves abreast with latest development in law and the decisions of the High Courts and the Apex Court whereas those belonging to the latter class neither have the time nor the aptitude to keep in touch with such developments. It would, therefore, be appropriate for the Government to examine the desirability of amending Section 73(2) of '1994 Act' by making a provision for constituting Election Tribunals consisting of judicial officers.”

11. In view of above, this Court finds that the impugned order is unsustainable and deserves to be quashed. Present appeal is allowed. Order dated 12.11.2024 passed by Election Tribunal, Sri Anandpur Sahib, is hereby set aside.

12. Parties are directed to appear before the Tribunal on 26.08.2025. The Tribunal is directed to decide the same in accordance with law.



13. A copy of this order be sent to Chief Secretary Punjab to apprise him of the casual approach of the Tribunal in dealing with the election dispute. He is requested to issue proper instructions to all the Election Tribunals across the State to follow procedure as contemplated under law.

(PANKAJ JAIN)
JUDGE

August 01, 2025
Paritosh Kumar/Dpr

Whether speaking/reasoned	Yes
Whether reportable	Yes