

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(127)

1.

CR-7208-2025 (O&amp;M)

Date of Decision:-08.10.2025

GURMEL KAUR

... Petitioner

Versus

ELECTION TRIBUNAL AND OTHERS

... Respondents

(127-2)

2.

CR-7209-2025 (O&amp;M)

JASVIR KAUR

... Petitioner

Versus

ELECTION TRIBUNAL AND OTHERS

... Respondents

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**CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

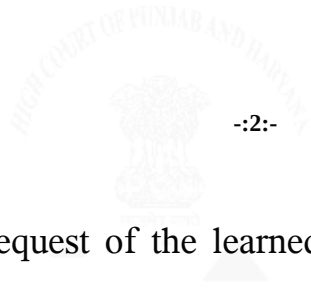
Present:- Mr. Arihant Jain, Advocate along with  
Mr. Arun Jaidal, Advocate;  
Mr. Kanish Jindal, Advocate and Ms. Shivaly Singla, Advocate  
for the petitioner (in **both petitions**).

Mr. Sunil Chadha, Senior Advocate with  
Mr. Prabhdeep S. Bhandari, Advocate  
for the respondent No.2 (in **both petitions**).

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**VIRINDER AGGARWAL, J.** (Oral)

1. This common order shall govern the disposal of the captioned revision petitions, all of which arise from the same legal and factual controversy. Considering that the parties are identical in each matter and that their respective counsel have expressed concurrence, the petitions are being adjudicated collectively in the interest of judicial economy and efficiency.

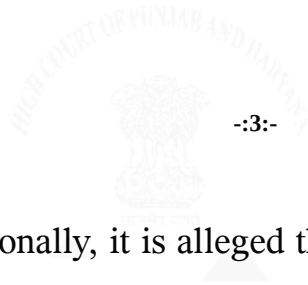


2. At the request of the learned counsel for the petitioner(s), the factual background for the purposes of this common order is taken from **CR-7208-2025**, which provides a comprehensive account of the relevant facts. Considering that the issues arising in the connected matters are substantially similar, the facts recorded in **CR-7208-2025** shall be treated as illustrative and representative for the adjudication of both the captioned revision petitions.

3. Both of the present revision petitions are directed against the order dated 30.09.2025 passed by the Election Tribunal, whereby the Tribunal commanded a recount of votes in the Panchayat elections for the offices of '**Panch**' and '**Sarpanch**' of village Chhahar, situated within the jurisdiction of Sunam, Udham Singh Wala, thereby necessitating adjudication of the petitions in light of the said direction.

3.1 The orders are challenged by the petitioner(s), who were declared successful in the elections, while the respondents unsuccessful candidates for the posts of '**Panch**' and '**Sarpanch**,' respectively had filed the election petitions.

4. The allegations set forth in the election petitions primarily assert that a number of votes were cast by fictitious or non-existent voters who were not present in the village. It is further contended that the respondents/petitioners were denied the opportunity to participate in the counting process and were forcibly removed from the counting centers under the pretext that the election had already been won. Several votes were rejected without being shown to the losing candidate or her counting agent, and neither the candidate nor her agent was permitted to remain in the



counting hall. Additionally, it is alleged that the signatures of the candidates were obtained fraudulently, and the respondents/petitioners became aware of this only several days later.

5. The petitioners/respondents contested the election petitions by asserting that the elections had been conducted strictly in accordance with law, and that the counting of votes was carried out in compliance with the prescribed procedure. They further contended that no objection was raised by any of the respondents/petitioners either during the counting process or thereafter. Both parties were granted an opportunity to lead evidence. The respondents/petitioners examined themselves and also produced two additional witnesses, while the petitioners/respondents appeared as witnesses to rebut the evidence presented by the respondents/petitioners. Upon considering the evidence and hearing the arguments of the parties, the Election Tribunal passed the impugned order directing a recount of the votes.

6. Dissatisfied and aggrieved by the orders so passed by the Election Tribunal, the petitioner/respondents have approached this Court, seeking appropriate relief and challenging the legality, propriety, and correctness of the directions contained therein.

7. At this stage, prior to the issuance of notice of motion and during the course of the preliminary hearing, the contesting private respondent No.2 in both matters appeared through Mr. Prabhdeep S. Bhandari, Advocate, who tendered his power of attorney before the Court today, which has been duly taken on record.

8. I have carefully heard the learned counsel appearing for the respective parties and have meticulously perused the entire record, including



the paper-books, pleadings, and annexed documents, in order to comprehensively appreciate the facts, submissions, and legal contentions involved in the matter.

9. Learned counsel for the petitioners assailed the order passed by the Election Tribunal on multiple grounds. It was contended that the petitions did not contain any concise statement of material facts, nor did they furnish particulars of the alleged corrupt practices. The witnesses examined by the respondents/petitioners were unrelated to the actual election process, and there exists no evidence other than bald, uncorroborated oral statements of the respondents/petitioners. The impugned order, it was argued, was passed solely on the basis of apprehensions of the respondents/petitioners, amounting to a mere fishing and roving inquiry. Further, the order of the learned Election Tribunal was characterized as cryptic, cyclostyled, and non-speaking. It was submitted that the learned Election Commissioner misinterpreted and misconstrued the relevant provisions of law. The mere fact that the margin between the successful and defeated candidate was narrow cannot constitute a ground to derail a democratic process. Given that the election process is sacrosanct and the secrecy of the ballot is paramount, the impugned order is unsustainable and ought to be set aside, with the revision petitions allowed.

10. Learned counsel appearing for the contesting respondent No.2 contended that the learned Election Tribunal had passed a well-reasoned order based on the allegations contained in the election petition and the evidence brought on record. It was further submitted that, in similar circumstances, the Hon'ble Apex Court, in its recent decision in **'Chandeshwar Saw v. Brij Bhushan Prasad and Others, Civil Appeal**



**No.780 of 2020, decided on 28.01.2020**’, upheld the order of recounting votes. Accordingly, it was argued that the revision petitions are liable to be dismissed.

11. Before addressing and evaluating the respective contentions of learned counsel for the parties, it is imperative to first examine the reasoning recorded by the learned Election Tribunal. The relevant portion of the impugned order is extracted as follows:-

“During the course of hearing of this petition and arguments, the petitioner had repeatedly requested for recounting of votes. It is clear from a careful perusal of the record and arguments that the petitioner has alleged several serious irregularities, particularly in the matter of non-showing of cancelled votes and exclusion from the counting process. Therefore, transparency is essential to maintain public confidence in the election results.

In view of the above and keeping in mind the request of the petitioner, the petition is allowed. It is ordered that the recount of the election held in Ward No. 9 Panchi at Village Chhahar Tehsil Sunam Udham Singh Wala during the Gram Panchayat Elections-2024 be conducted.”

12. The reasoning recorded by the learned Tribunal reveals that it has merely reiterated the allegations advanced by the petitioners regarding alleged irregularities in the counting process, particularly the non-disclosure of rejected votes and their alleged exclusion from the counting hall. However, the election petition itself acknowledges that the petitioners had affixed their thumb impressions or signatures on the documents relating to the counting of votes and the declaration of results, though it is claimed that



such signatures were obtained fraudulently and that they became aware of the same only after a lapse of several days.

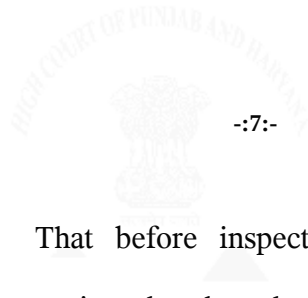
12.1. Notably, the petition lacks any specific particulars of the alleged fraud or the identity of the election officials purportedly involved. It is a settled principle of law that allegations of fraud must be pleaded with precision and established through cogent evidence, the standard of proof in such matters being one approaching that of proof beyond reasonable doubt, even in civil proceedings.

12.2. In the instant case, the learned Election Tribunal has failed to undertake a reasoned evaluation of the evidence adduced by the parties. No specific findings have been recorded either on the factual allegations contained in the election petition or on the evidence produced during trial. Moreover, the Tribunal has not expressed any *prima-facie* satisfaction regarding the existence of malpractice or irregularity in the counting process.

12.3. The Hon'ble Apex Court, in **Bhabhi v. Sheo Govind and Others, (1976) 1 SCC 687**, has succinctly enunciated the principles governing the circumstances under which directions for inspection or recounting of votes may be warranted, which are reproduced as under:-

15. Thus on a close and careful consideration of the various authorities of this Court from time to time it is manifest that the following conditions are imperative before a court can grant inspection, or for that matter sample inspection, of the ballot papers:

- (1) That it is important to maintain the secrecy of the ballot which is sacrosanct and should not be allowed to be violated on frivolous, vague and indefinite allegations;



- (2) That before inspection is allowed, the allegations made against the elected candidate must be clear and specific and must be supported by adequate statements of material facts;
- (3) The Court must be *prima facie* satisfied on the materials produced before the Court regarding the truth of the allegations made for a recount;
- (4) That the Court must come to the conclusion that in order to grant prayer for inspection it is necessary and imperative to do full justice between the parties;
- (5) That the discretion conferred on the Court should not be exercised in such a way so as to enable the applicant to indulge in a roving inquiry with a view to fish materials for declaring the election to be void; and
- (6) That on the special facts of a given case sample inspection may be ordered to lend further assurance to the *prima facie* satisfaction of the Court regarding the truth of the allegations made for a recount, and not for the purpose of fishing out materials."

If all these circumstances enter into the mind of the Judge and he is satisfied that these conditions are fulfilled in a given case. the exercise of the discretion would undoubtedly be proper."

13. As per condition No.3 laid down in the **Bhabhi's** case (*supra*), it is incumbent upon the Court to record a *prima-facie* satisfaction as to the truth and credibility of the allegations forming the basis for a recount. Further, under condition No.4, the Court must arrive at a definite conclusion that such a recount is necessary and imperative to ensure complete justice between the parties. It is equally well-settled that the discretion vested in the Election Tribunal is not to be exercised in a manner that permits a party to



embark upon a ***roving or fishing inquiry*** in search of material to invalidate an otherwise lawful election.

13.1. In the present case, however, the learned Election Tribunal has failed to adhere to these judicially recognized parameters. The Tribunal did not record any finding of *prima-facie* satisfaction based on the evidence available on record; instead, it proceeded merely on the generalized premise that, in view of the “serious allegations” made by the petitioners, transparency was essential to maintain public confidence in the election process.

13.2. Such an approach reflects a clear non-application of mind and an improper exercise of judicial discretion. The Tribunal’s order, being devoid of the requisite findings and legal justification, cannot be sustained in the eyes of law. Accordingly, the impugned orders are hereby set aside, and the revision petitions stand allowed.

14. The learned Election Tribunal is, therefore, directed to undertake a fresh adjudication of the Election Petition in accordance with law, strictly confined to the pleadings of the parties and the evidentiary material already available on record. The Tribunal shall apply its mind independently to the contentions advanced and shall record well-reasoned findings on each issue arising from the pleadings and evidence produced during the proceedings.

14.1. In the course of such reconsideration, if the learned Election Tribunal, upon an objective and detailed assessment of the record, arrives at a *prima-facie* satisfaction that irregularities or errors occurred during the counting process which may have materially affected the election result, it shall clearly articulate and substantiate the grounds for such conclusion by assigning cogent and specific reasons in the order itself. Only upon such a



reasoned satisfaction, and not otherwise, may the Tribunal proceed to direct recounting of the votes, ensuring that the sanctity of the electoral process and the secrecy of the ballot are duly preserved in accordance with the settled principles of law.

15. However, it is made explicitly clear that the observations and findings recorded here-in-above are not to be construed as an expression of opinion on the merits of the case. They are confined solely to the limited context of the present controversy and the scope of deliberation undertaken for adjudicating these revision petitions.

16. Since the principal matter stands conclusively determined by this order, all pending miscellaneous application(s), if any, shall also stand disposed of accordingly.

17. A photocopy of this order shall be placed on the record of connected case file for the purposes of ready reference, consistency, and necessary compliance by the concerned authorities and parties to the proceedings.

**08.10.2025**  
Gaurav Sorot

**( VIRINDER AGGARWAL )**  
**JUDGE**

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No