



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-5679-2025 (O&M) &
CR-8464-2025

(i) CR-5679-2025 (O&M)
Kamaljit Singh

...Petitioner

Versus

Sandeep Singh and another

...Respondents

(ii) CR-8464-2025
Kamaljit Singh

...Petitioner

Versus

Sandeep Singh and others

...Respondents

Reserved on : 26.11.2025
Date of decision: 02.12.2025
Uploaded on: 02.12.2025

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued by: Mr. A.S. Dhindsa, Advocate
for the petitioner.

Mr. K.B. Raheja, Advocate
for the respondents/caveators.

DEEPAK GUPTA, J.

Both these revision petitions arise out of the same election proceedings and are, therefore, being decided together.

2. The petitioner, Kamaljit Singh, challenges two orders passed by the Presiding Officer, Election Tribunal, Malerkotla—one dated 12.08.2025, directing recounting of votes; the other dated 08.10.2025, permitting the election-petitioner Sandeep Singh (*respondent No.1*) to withdraw the relief seeking declaration of his own election. The factual background and legal issues being common, a composite adjudication is warranted.



3. ***Factual Background*** : Elections to the Gram Panchayat, Village Hathan, were held on 15.10.2024. Four candidates contested the post of Sarpanch, including the petitioner and respondent No.1. Out of 2803 valid votes, the petitioner secured 1166, and respondent No.1 secured 1160 votes. A margin of six votes determined the result.

4. Respondent No.1 filed an election petition under Section 76 of the Punjab State Election Commission Act, 1994 (“the Act”), alleging improper counting, irregularities, and wrongful rejection of votes, and sought recounting as well as a declaration that he be declared elected.

5. The Tribunal, after receiving replies, by order dated 12.08.2025, directed recounting of votes and fixed modalities for the exercise.

6. The petitioner herein invoked Article 227 before this Court by filing **CR-5679-2025**, contending, inter alia, that the election petition was itself not maintainable for non-compliance with mandatory provisions of Sections 76, 77 and 103 of the Act.

7. When this Court, on 25.08.2025, drew attention to the mandatory requirement of impleading all contesting candidates, where a declaration of election is sought as per Section 77 of the Act, respondent No.1 moved an application before the Tribunal as well as before this Court seeking withdrawal of his declaration prayer. The Tribunal allowed such withdrawal on 08.10.2025.

8. This second order is challenged by the petitioner through **CR-8464-2025**.

9. ***Issues for Consideration*** : The following issues arise for adjudication:

- Whether the election petition suffered from fatal defects of presentation, verification, attestation of copies, and non-impleadment of ne-



cessary parties under Sections 76, 77 and 78 of the Act, rendering it non-maintainable?

- Whether the Tribunal was justified in directing recounting of votes?
- Whether withdrawal of the prayer for declaration by respondent No.1 as Sarpanch, cures the alleged inherent defects?

10. Ld. Counsel for the petitioner contends that (i) the election petition was not signed on each page, (ii) verification was not in accordance with Order 6 Rule 15 CPC, (iii) copies served on respondents were not attested, and (iv) all contesting candidates were not impleaded though declaration was sought by election petitioner i.e., respondent herein to be declared as sarpanch.

11. Relevant Provisions are as under:

“77. Parties to the petition.— A petitioner **shall** join as respondent to his petition-- (a) where he in addition to claiming declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates and where no such further declaration is claimed, all the returned candidates: and

(b) any other candidate against whom allegation of any corrupt practice is made in 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.

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12. Use of the words "shall" in all the above provisions make it clear that these are mandatory requirements.

13. The legal position is settled by a long line of judgments. In **Radha vs. ADC (General) cum Presiding Officer Law Finder Doc Id # 853675; Ranjit Kaur v Harjinder Kaur and others, 2010(2) L.A.R. 1; Manjit Kaur v. Bhupinder Kaur 2013 (3) LAR 443; and Gurmit Singh vs Raj Kumar and others, Law Finder Doc Id # 1279475**, by referring to Section 76, 77 & 80 of the Act, it has been held that non-compliance with Sections 76, 77 and 103 is not a curable defect, as it strikes at the root of maintainability and mandates dismissal of the petition at the threshold. In **Amarjit Kaur and others vs Raj Kau and another, 2011(1) L.A.R. 193**, non-impleadment of all the contesting candidates, when he seeks declaration to be declared as elected, has been held to be a mandatory requirement.

14. The object of these provisions is to ensure authenticity, prevent fabrication, and safeguard returned candidates from being taken by



surprise. Attested copies and proper verification are not procedural niceties but substantive statutory requirements.

15. In the present case, the record confirms that the original election petition was neither signed page-wise nor verified as per law. Further, respondent No.1/election petitioner admittedly did not implead all contesting candidates while simultaneously seeking a declaration of his own election. This defect alone is fatal in terms of Section 77 to be read with Section 80 of the Act, as held in ***Amarjit Kaur (supra)***.

16. Ld. Counsel for Respondent No.1/election petitioner argues that by giving up his declaration prayer, he brought the petition in conformity with Section 77. However, this argument cannot be accepted for two reasons. Firstly, a petition that is defective *ab initio* cannot be revived by withdrawal or amendment subsequently, particularly when Section 80(1) declares such defects as *non-curable*. Secondly, the trial had already commenced, and evidence had been led. The amendments, which affect the substance of an election dispute, after commencement of trial, cannot be permitted. Thus, the withdrawal of declaration does not erase the original defect.

17. The judgments relied upon by Ld. Counsel for the respondent No.1— ***Avtar Singh Vs. Harcharan Singh Brar and others, 1994 AIR (P&H) 161***; and ***Santokh Ram Vs. Ram Asra and others, 2016 (3) PLR 143***, deal with curable defects in verification and not with non-impleadment of necessary parties, which is expressly held to be fatal by the more directly applicable precedents cited by the petitioner.

18. Accordingly, it is held that the election petition was not maintainable when filed, and was liable to be dismissed at the threshold.

19. Proceeding further, ordinarily, recounting is an exceptional step. The law laid down by Hon'ble Supreme Court in ***Sadhu Singh v. Darshan Singh Law Finder Doc Id # 123473*** and reiterated in ***Gurtej Singh Vs.***



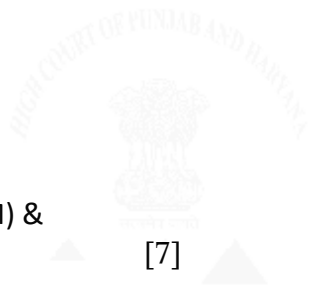
Darbara Singh 2000 (3) PLR 344; Roop Singh Vs. Deputy Commissioner and others, 2006 (2) LAR 282; and Mohinder Singh Vs. Inder Singh and others, 2016 (2) LAR 248 requires that following factors are relevant for ordering recounting of votes:

- existence of a *prima facie case*;
- *specific pleadings* of irregularities;
- *material evidence* supporting the plea;
- avoidance of “fishing inquiries”; and
- preservation of secrecy of ballot.

20. In present case, while the Tribunal recorded reasons and relied on the narrow margin of six votes, the recount order cannot survive once the election petition itself is held to be non-maintainable. The jurisdiction to order recount arises only in a validly instituted election petition. If the petition fails at the threshold, the consequential order of recount automatically fails.


21. **Conclusion** : Having considered the factual background, statutory framework, and binding precedents, this Court holds:

- The election petition filed by respondent No.1 suffered from multiple jurisdictional defects under Sections 76, 77 and 78 of the Act—namely improper verification and non-impleadment of all contesting candidates, when a declaration was sought.
- These defects are non-curable under Section 80 (1) and that maintainability of the petition must be tested on the date of presentation.
- Withdrawal of the prayer for declaration after commencement of trial does not cure the foundational defects.
- Consequently, the order dated 12.08.2025 directing recounting, being passed in a non-maintainable petition, is unsustainable.



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- The order dated 08.10.2025, permitting withdrawal of one relief, cannot validate an inherently defective petition and is thus legally inconsequential.

17. Consequently, both impugned orders are set aside. The election petition filed by respondent No.1 before the Election Tribunal is held to be not maintainable and is accordingly dismissed. Both revision petitions succeed and are allowed accordingly.

02.12.2025
Yogesh

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No