



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR-1073-2025  
Decided on : 08.04.2025

Sukhveer Singh ..... Petitioner

Versus

Nachhattar Singh and others  
..... Respondents

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

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Present : Mr. Rajesh Bhatheja, Advocate  
for the petitioner.

Mr. Ankur Mittal, Advocate and  
Ms. Kushaldeep Kaur, Advocate  
Mr. Nishant Ghangas, Advocate  
Mr. Sakal Kundu, Advocate and  
Ms. Sharni Dadhwal, Advocate  
for the respondents.

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**VIKRAM AGGARWAL, J (ORAL)**

The present revision petition, preferred under Article 227 of the Constitution of India, assails the order dated 21.01.2025 (Annexure P-5), passed by the Presiding Officer, Election Tribunal, Moga vide which the application filed by respondent No.1 (Nachhattar Singh) for impleading respondents No.4 to 9 (herein) as respondents in the election petition was allowed.

2. Elections for the post of Sarpanch of Gram Panchayat, Village Malianwala, District Moga were held on 15.10.2024. The petitioner (Sukhveer Singh) was elected as Sarpanch leading to the filing of an election petition



(Annexure P-1) under Section 74 of the Punjab State Election Commission Act, 1994 (hereinafter referred to as 'the 1994 Act') by respondent No.1 Nachhattar Singh. The said petition was opposed by way of a reply (Annexure P-2) by the present petitioner.

3. An application (Annexure P-3) came to be filed by respondent No.1 for impleading respondents No.4 to 9 as parties/respondents in the election petition. It was averred in the application that the presence of the persons sought to be impleaded was essential for the decision of the case. The said application was opposed by way of a reply (Annexure P-4). It was averred that an aggrieved person has the right to file the election petition within 45 days from the date of declaration of results and can implead the parties at that time. It was averred that thereafter no person can be impleaded. Dismissal of the application was, therefore, prayed for. The said application was allowed vide the impugned order dated 21.01.2025 (Annexure P-5) leading to the filing of the present revision petition.

4. I have heard learned counsel for the parties.

5. Learned counsel for the petitioner has strenuously urged that the impugned order is not sustainable. He has referred to the provisions of Section 76 of the 1994 Act which lays down that an election petition is to be preferred within a period of 45 days from the date of election of the returned candidate. Learned counsel has also referred to the provisions of Section 77 of the 1994 Act which deals with parties to the petition and Section 80 (3) of the 1994 Act. Learned counsel submits that in view of the provisions of Section 77, since the necessary parties had not previously been impleaded, the petition was liable to be rejected on



this ground alone. It has been submitted that in terms of the provisions of Section 80(3) of the 1994 Act, a candidate who was not already a respondent could move an application within fourteen days from the date of commencement of the trial for being impleaded as a respondent. Learned counsel submits that this provision would apply only to a candidate and not to other persons. Learned counsel submits that there was no provision to permit impleadment of other persons as respondents and that provisions of the Code of Civil Procedure, 1908 (hereinafter referred to as 'the CPC') could not be made applicable to the 1994 Act. In support of his contentions, learned counsel has placed reliance upon the judgments of the Coordinate Benches of this Court in the cases of *Shiv Chand versus Ujagar Singh 1978 AIR (P&H) 200* (Law Finder Doc Id # 85202) and *Amarjit Kaur & Ors. versus Raj Kaur & Anr.* 2011(5) RCR (Civil) 826 (Law Finder Doc Id # 256663).

6. Per contra, learned counsel for the respondents, with equal vehemence, submits that there is no illegality in the impugned order. Referring to the notice of motion order, learned counsel has submitted that the judgment of the Coordinate Bench of this Court in the case of *Shiv Chand versus Ujagar Singh (supra)* was set aside by the Supreme Court of India in the case of *Shiv Chand versus Ujagar Singh and another 1978 AIR (SC) 1583* (Law Finder Doc Id # 105345) and that learned counsel for the petitioner wrongly and contemptuously placed reliance upon the same and obtained a stay order from the Court. Learned counsel has also referred to the statutory provisions as referred to in the preceding paragraphs and has submitted that the application was filed right at the threshold. He submits that the election petition was filed on 18.11.2024 and the application for impleadment was moved on 05.12.2024; the first hearing in the election



petition took place on 09.12.2024 and the written statement as also reply to the application was filed by respondent No.1 (petitioner herein) on 16.12.2024. He submits that this alone would show the bonafides of applicant/respondent No.1 herein. As regards the provisions of Section 77 of the 1994 Act, learned counsel submits that the said provision would apply to contesting parties/returned candidates etc. and not to officials who were sought to be impleaded in the present case. Learned counsel submits that no interference is called for in the discretion exercised by the Election Tribunal. Learned counsel has also placed reliance upon a judgment of the Coordinate Bench of this Court in the case of ***Gurcharan Singh versus The Presiding Officer, Election Tribunal and others (CR No.3977 of 2014, decided on 03.12.2014)***. Learned counsel also submits that the judgment in the case of ***Amarjit Kaur & Ors. versus Raj Kaur & Anr. (supra)*** has no relevance to the facts of the case and reliance upon the same also at the time of issuance of notice of motion was erroneous.

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

8. Section 76 (1) of the 1994 Act provides as under:-

***“76. Presentation of petition.-- (1) 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.”***

Section 77 of the 1994 Act provides 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.”*

Section 80 (3) of the 1994 Act provides as under:-

*“Section 80 (3) Trial of election petitions.-- 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.”*

A perusal of the aforesaid provisions shows that an election petition can be presented within a period of 45 days from the date of election of the returned candidate. Still further, Section 80 (3) of the 1994 Act lays down that a candidate who is not already a respondent can move an application to the Tribunal within fourteen days from the date of commencement of the trial of the election petition to be joined as a respondent. This provision, therefore, applies to candidates.

9. Now reverting to the facts of the case, the election petition was instituted on 18.11.2024. The application for impleadment was filed on 05.12.2024 i.e. before the first hearing of the election petition which took place on 09.12.2024. The written statement and reply to the application was submitted by the petitioner herein on 16.12.2024. The application sought impleadment of certain officials viz. Tehsildar, District Moga, The Assistant Returning Officer, PROs, APROs of parties No.105 and 106. The Tribunal exercised its discretion and allowed the application;



*“The arguments advanced by the Counsel for the petitioner and the Counsel for Respondent No.1-Sukhbir Singh on the application dated 05.12.2024 filed by the Petitioner Party for making amendment in the petition were heard. This Court does not agree with the pleadings of the Respondent Party because of the reason that the first hearing of the petition was conducted on 09.12.2024, thereafter, the petitioner and Respondent No.1 put their appearance in this court through their respective Counsels on 16.12.2024. The Reply to the application submitted by the petitioner for amendment on 5.12.2024 was given by the Counsel for the Respondent Party on 16.12.2024 itself. Prior to filing reply by the Respondent Party on 16.12.2024 to the application filed by the petitioner Party for amendment in the present petition on 05.12.2024, the Respondent Party did not file any objection on the amendment application. The hearing of the petition is still at initial stage and in order to know the facts of the case in depth, it is necessary to implead all the concerned parties in the petition and only then the Court can take just decision. Therefore this Court rejects objection of the Respondent Party which it has raised on the amendment application and allows the application filed by the petitioner on 05.12.2024 for amendment in the petition. By continuing further proceedings in the petition, summoning notice to the parties mentioned in the application dated 05.12.2024 may be issued. The file in respect of summoning of the Respondent Parties may be presented on 4.2.2025.”*

10. It was rightly observed by the Tribunal that the petition was at the initial stage and with a view to ascertain the facts of the case in depth, it was necessary to implead all the concerned parties which would assist the Court in arriving at a just decision. In the considered opinion of this Court, the discretion was rightly exercised and I do not find any reason to interfere in the same. Section 77 would not come to the aid of the petitioner, for, it essentially deals with the contesting parties/returned candidates and not impleadment of officers/officials as were sought to be impleaded in the present case.

11. As regards the judgment of the Coordinate Bench of this Court in the case of *Shiv Chand versus Ujagar Singh* (supra), no doubt, a Coordinate Bench



of this Court had struck down the action of the Tribunal in impleading one of the candidates as a party at a subsequent stage. Notably, in that case, there were two applications, one moved by the petitioner under Order 1 Rule 10 (2) read with Order 6 Rule 17 and Section 151 CPC for impleading Mal Singh, against whom allegations had been levelled in the election petition, as a party respondent and the other moved under Section 86 (4) of the Representation of the People Act, 1951 by Mal Singh himself for being impleaded him as a party. Both applications were dismissed by a Coordinate Bench of this Court. When the matter reached the Apex Court, the Hon'ble Court did not go into the question of dismissal of the application under Order 1 Rule 10 CPC but allowed the application of Mal Singh and impleaded him as a party. In the considered opinion of this Court, none of these judgments, be that of the Coordinate Bench of this Court or that of the Supreme Court of India would have a bearing on the facts of this case. At the cost of repetition, it is reiterated that the Tribunal rightly exercised its discretion in allowing the application in the present case whereas in the case of *Shiv Chand versus Ujagar Singh* (supra), the Tribunal had exercised its discretion and had rejected the application. In so far as the judgment in the case of *Amarjit Kaur & Ors. versus Raj Kaur & Anr.* (supra) is concerned, the facts were entirely different and there, the issue was as regards provisions of Section 77 of the 1994 Act. In the case of *Gurcharan Singh versus The Presiding Officer, Election Tribunal and others* (supra), a Coordinate Bench of this Court had upheld the decision of the Tribunal in allowing the application under Order 1 Rule 10 CPC for impleading the State of Punjab and the then Presiding Officer as respondents. The Coordinate Bench held that the provisions of Section 80 (3) of the 1994 Act would



not affect the inherent right of the election petitioner to seek impleadment of necessary parties;

*A bare reading of the aforesaid provision makes it clear that it imposes a restriction upon a candidate who had contested the elections for being impleaded as a respondent at his own instance before Election Tribunal within fourteen days of the commencement of the trial. This restriction appears to have been made on account of the fact that Sub Section 6 of Section 80 requires the election petition to be tried as expeditiously as possible and possibly within six months from the date of filing of the election petition. Thus to avoid any effort on the part of any unsuccessful candidate to delay the conclusion of the trial, the said embargo has been placed. Therefore, the arguments raised on behalf of the petitioner are totally misplaced as the inherent right of the election petitioner to seek the impleadment of the other necessary parties cannot be construed to be restricted by the aforesaid Sub Section (3) of Section 80 of the Act.*

*In the present case, it is apparent that State of Punjab and the Presiding Officer are necessary parties who have been rightly permitted to be impleaded which has caused no prejudice to the present petition.”*

In view of the aforementioned facts and circumstances, the present revision petition is found to be bereft of merit and is accordingly dismissed.

(VIKRAM AGGARWAL)  
JUDGE

08.04.2025

Mamta/Prince Chawla

Whether speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No