

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

**F.A.O No.5205 of 2008**

Date of Decision: 27.11.2009

Kamaljit Kaur

....Appellant

Versus

Jasbir Kaur and others

...Respondents

CORAM : Hon'ble Ms. Justice Nirmaljit Kaur

Present:- Mr. Ashwani Prashar, Advocate  
for the appellant.

Mr. Sanjeev Sharma, Sr. Advocate  
with Mr. Shekhar Verma, Advocate  
for respondent No.1.

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1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

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NIRMALJIT KAUR, J.

The election petition was filed by respondent No.1-Jasbir Kaur, challenging the election of the appellant Kamaljit Kaur before the Election Tribunal under Section 76 of the Punjab State Election Commission Act, 1994. The Election Tribunal set aside the election of the appellant as Member Panchayat of Village Soos, Tehsil and District Hoshiarpur.

Facts in short are that respondent Jasbir Kaur and the appellant Kamaljit Kaur were the candidates for the post of General 'Lady Panch' Category. Both the appellant and respondent filed their nomination papers for the post of General Lady Panch Category. Nomination papers of

the respondent were found to be correct and after due scrutiny, the election symbol of 'bus' was allotted to the appellant Kamaljit Kaur. The respondent was allotted the symbol of 'Cock'. The said election was held on 26.05.2008. However, on 25.05.2008, prior to the date of polling, the respondent was surprised to see that her name was not mentioned in the category of lady Panch General on the list which was pasted outside the polling booth. Instead, her name was shown under the category of 'General' and was kept out from the consideration zone against the post of 'Woman General Panch'. By keeping the respondent out of this category, appellant Kamaljit Kaur was the only candidate left. However, she was declared elected unopposed. Immediately, Jasbir Kaur approached the District Election Officer, Hoshiarpur and made a complaint in writing that Kamaljit Kaur had been wrongly declared elected as unopposed. The District Election Officer, Hoshiarpur, forwarded the complaint to Sub Divisional Magistrate, Hoshiarpur who submitted his report to the District Education Officer. The District Education Officer further forwarded the letter to the State Election Commission for postponement of the election. The Sub Divisional Magistrate, Hoshiarpur, as well as, the District Education Officer admitted in their report that there was a lapse on the part of the Returning Officer and the name of the respondent Jasbir Kaur was erroneously not mentioned in the category of Lady Panch General and Kamaljit Kaur was wrongly declared elected. However, the State Election Commission refused to reschedule the election. Accordingly, respondent Jasbir Kaur filed Civil Writ Petition before this Court. The said writ petition was disposed of with a direction to make a representation to the Election Commission. The Election Commission referred the matter to the Election Tribunal, Hoshiarpur, for decision. Thereafter, the Election Petition was filed.

The said Election Petition was finally allowed by the Election

Tribunal, Faridkot, vide order dated 04.11.2008 and thereafter, the elections were ordered for the post reserved for Woman General Panch with the following observations:-

“Apart from this from the perusal of nomination letter Ex.P-9, the validity of the claim of the petitioner is increased because the petitioner has clearly mentioned in the nomination forms in the column of name, the words Punch Lady General, there is no reason that the Returning Officer or any other senior officer could change the category of the nomination letters against her wish. As per report of the Returning Officer he has accepted that this mistake has been committed due to rush of work. Such mistake by a Returning Officer is also a common matter because during the Panchayati Elections, a Returning Officer has to work for the Panchayats of a lot of villages and the possibility of mistake could not be ruled out. Rather the Returning Officer in his report sent to the Sub Divisional Magistrate, Hoshiarpur has recommended that the name of Jasbir Kaur should be considered for Woman General Panch. In the light of the above circumstances this court has come to conclusion that the petitioner filed her nomination form against the post of Woman General Panch only. Due to the mistake of the Returning Officer, these nomination forms were considered for the post of General Panch. Keeping in view the principles of natural justice, the petitioner could not be deprived off her right due to the mistake of the Returning Officer. The claim of the petitioner is absolutely correct, true and based on the facts. Therefore the petition is accepted. The election of Respondent no.1-Kamaljit Kaur, declared elected as un-opposed against the post of Woman General Panch of Village Soos is hereby set aside.”

The above order dated 04-11-2008 passed by the Election Tribunal, Faridkot, has been challenged by the appellant on the following

grounds :-

(a) The verification of the plaint is neither proper nor in accordance with law. Hence, the election petition should have been dismissed on account of improper verification.

(b) There is no ground for setting aside the election. The election can be set aside only on the grounds as mentioned in Section 89 of the Punjab State Election Commission Act, 1994 (here-in-after referred to as 'the Act'). It was further stated that reading of Section 89 of the Act, makes it clear that the Election Tribunal, Faridkot, has not mentioned any of the grounds, on the basis of which, the election has been set aside, whereas, Section 76 of the Act clearly says that the election petition can be presented to the Election Tribunal only when the same is specified in Sub Section (i) of Section 89 of the Act.

(c) The respondent No.1-Jasbir Kaur, had mentioned "GENERAL' in bold letters on the top of her nomination papers i.e. Form 4 and the appellant was not issued any election symbol as there was no other candidate from the lady general seat. Thus, the appellant was rightly elected as a candidate against the post reserved for general lady panch, being the only candidate in the field.

Learned counsel for the respondents, on the other hand, submitted that the appellant did not raise the objection of improper verification before the Election Tribunal and therefore, she cannot raise issue of verification for the first time in appeal. Moreover, the election petition cannot be dismissed on the ground of verification alone. It was further submitted that the election of the appellant was set aside as the nomination papers of the respondent were accepted under the wrong category of 'general', whereas, she had filed her nomination papers under the category of general lady panch. This had materially affected the result. As such, the said ground was a good ground to set aside the election

under Section 89 of the Act. Learned counsel for the respondent further submitted that so far as the claim of the respondent is concerned, she had duly filed her nomination form for the post of woman general panch and the same is evident from the nomination papers itself. It was only when she learnt on 25-05-2008 that her name was being shown against the post of general panch that she immediately appeared before the Deputy Commissioner, Hoshiarpur and filed a written complaint on 25-05-2008 itself, i.e. before the elections.

Learned counsel for the parties have been heard.

Taking up the first argument of learned counsel for the appellant that the verification of the plaint is not proper and in accordance with law, reliance was placed by the learned counsel for the appellant on the judgment of Hon'ble the Apex Court, rendered in the case, titled as *Baldev Singh v. Shinder Pal Singh* 2006(4) R.C.R. (Civil) 891, wherein, it was held that the verification of election petition must be done strictly in terms of Order 6 Rule 15 of C.P.C., and that it was incumbent upon the party to specifically state as to which statements made in the election petition were true to his knowledge and which were true to his belief.

There is no dispute with the proposition of law as laid down by Hon'ble the Supreme Court, in the case *Baldev Singh* (supra). The question is whether the election petition can be set aside on the ground of defective verification, Hon'ble the Apex Court, in the case of *Muraka Radhey Shyam Ram Kumar v. Roop Singh Rathore* AIR 1964 SC 1545, held that the defect in verification as not a fatal defect. Para 8 of the said judgment reads thus :-

“ We now go to the second point. But before we do so, it may perhaps be stated that certain defects in the verification of Election Petition No.269 of 1962 have been brought to our notice, as they were brought to the notice of the Election Tribunal. One of these

defects was that though the verification stated that the averments made in some of the paragraphs of the petition were true to the personal knowledge of the petitioner and the averments in some other paragraphs were verified to be true on the basis of advice and information received by the petitioner from legal and other sources, the petitioner did not state in so many words that the advice and information received was believed by him to be true. The Election Tribunal took the view that this defect in verification was a matter which came within cl. (c) of sub-s. (1) of S. 83 and the defect could be removed in accordance with the principles of the Code of Civil Procedure, 1908. The Election Tribunal further held that such a defect did not attract sub-s. (3) of S. 90 inasmuch as that sub-section does not refer to non-compliance with the provisions of S. 83 as a ground for dismissing an election petition. We agree with the view expressed by the Election Tribunal. We have pointed out that sub-s. (4) of Sec. 90 originally referred to three sections, namely, Ss. 81, 83 and 117. It said that notwithstanding anything contained in S. 85 the Tribunal might dismiss an election petition which did not comply with the provisions of S. 81, S. 83 or S. 117. Section 90 was amended by Act 27 of 1956. Sub-section (3) then said that the Tribunal shall dismiss an election petition which does not comply with the provisions of S. 81, S. 82 or S. 117 notwithstanding that it has not been dismissed by the Election Commission under S. 85. There was a further amendment by Act 40 of 1961 and sub-s. (3) of s. 90 as it now stands has already been quoted by us in an earlier part of this judgment. It seems clear to us that reading the relevant section in Part VI of the Act, it is impossible to accept the contention that a defect in verification which is to be made in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings as required by cl. (c) of sub-s. (1) of S. 83 is fatal to the

maintainability of the petition.”

In the present case, the election petition was filed under the Punjab State Election Commission Act, 1994. Section 78(1)(c) of the Act, reads as under and is the same as Section 83(1)(c) of the Representation of the People Act, 1951 :-

**“78. Contents of petition-(1)** As election petition shall,-

(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.”

Further, Section 80(1) of the Act clarifies that the Election Tribunal shall dismiss an election petition which does not comply with the provisions of Section 76 or Section 77 or Section 103. It is apparent that the election petition cannot be dismissed on the ground as envisaged under Section 78(1)(c). Applying the same parameters as held in the case of *Muraka Radhey Shyam Ram Kumar* (supra), the defect in the verification is not fatal to the election petition. The petition cannot be thrown out solely on this ground.

Taking up the second argument of learned counsel for the appellant that whether the dispute in the present case fits in the grounds mentioned in Section 89 of the Act or not, learned counsel for the respondents submitted that the same was not only covered under Section 89(1)(d)(i) and 89(1)(c) but also under 89(1)(d)(iv) on account of a clear violation of Sections 40, 41 read with Rules 11 and 12 of the Act.

As submitted above, the dispute herein was that the respondent filed her nomination form under the category of general lady panch. Confusion arose on account of the word 'GENERAL' written on the right corner of the nomination form. Thus, the said nomination paper was wrongly dealt with under the category of 'GENERAL'. The same resulted in the appellant being declared unopposed as the two other candidates who

had filed their papers in the category of general lady panch withdrew their nomination papers. When the respondent came to know of the same on 25-05-2008, she immediately made a complaint and did not pursue the election which was held on 26.05.2008. Thus, it is apparent that her nomination paper was accepted under a wrong category and rejected under the correct category of general lady panch. The acceptance of her nomination paper under the wrong category materially affected the result. Thus, the ground taken in the petition is covered under Section 89(1)(c) and 89(1)(d)(i) of the Act, which is a sufficient ground for declaring the election to be void.

As per the learned counsel for the appellant, Section 89 of the Act deals with the ground declaring the election to be void, in case, the nomination paper is improperly rejected, whereas, in the present case, the nomination paper has not been rejected at all. However, the argument of learned counsel for the appellant cannot be accepted, in as much as, the nomination paper having been wrongly considered in a category to which she does not belong also tantamount to rejection. In the present case, it is not only rejected under the wrong category but also accepted under a wrong category. The ground of wrong rejection and wrong acceptance of the nomination is a ground for setting aside the election under Section 89 of the Act. The same has definitely led to materially affecting the result of the returned candidate.

Learned counsel for the respondent further submitted that the dispute in the present case was also covered under Section 89(1)(d)(iv) of the Act due to non-compliance of the provisions of the said Act. The same reads as under :-

- “89. Grounds for declaring election to be void.** -(1) Subject to the provisions of sub-section (2), if the Election Tribunal is of the opinion.-
- (d) that the result of the election, in so far as



it concerns a returned candidate, has been materially affected.-

(iv) by any non-compliance with the provisions of the Constitution of India or of this Act or of any rules or orders made under this Act;

the Election Tribunal shall declare the election of the returned candidate to be void.”

It was submitted that there is a clear violation of Sections 40, 41 read with Rules 11 and 12 of the Act. As per these provisions mentioned here-in-above, the Returning Officer, after acceptance of nomination paper has to give an opportunity to a candidate to examine the nomination papers at the time of scrutiny. Admittedly, no opportunity was given. Thus, the ground of non-compliance with these provisions of the Act is a sufficient ground for setting aside the election under Section 89(1)(d)(iv) of the Act. Sections 40, and 40(1) of the Act reads as under :-

**“40. Notice of Nominations And The Time And Place For Their Scrutiny** – The Returning Officer shall on receiving the nomination paper under sub-section (1) of section 38 inform the person or persons delivering the same of the date, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him, and shall as soon as may be, thereafter, cause to be affixed in some conspicuous place in his office, a notice of the nomination containing description similar to those contained in the nomination paper, both of the candidate and of the proposer.

**41. Scrutiny of Nominations.** - (1) On the date fixed for the scrutiny of nominations under section 35, the candidates, their election agents, one proposer of each candidate and one other person duly authorised in writing by each candidate, but no

other person, may attend at such time and place as the Returning Officer may appoint, and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in section 38.

Rule 11 of the Act reads thus :

**11. Scrutiny of nomination papers and decision of objections (Section 41).**

(1) The Returning Officer shall examine the nomination papers at the tie appointed in this behalf, hear objections, if any, presented by the objectors in person, as to the eligibility as he may consider necessary. The decision rejecting or accepting a nomination paper and brief statement of reasons thereof shall be endorsed on the nomination paper and signed by the Returning Officer.

Provided that the Returning Office may,-

(a) permit any clerical error in the nomination paper in regard to names or numbers to be corrected in order to bring them in conformity with the corresponding entries in the electoral rolls; and

(b) where necessary, direct that any clerical or printing error in the said entries shall be overlooked.

(2) The person objecting under sub-rule (1) must be a candidate of the concerned Panchayat or Sabha Area, as the case may be."

As regards the above, RW-2 Raj Kumar admitted in the cross-examination that he did not give any opportunity to the candidates to examine their nomination papers. If the opportunity to examine the nomination papers had been granted, it would have come to the notice of the respondent that her form was being wrongly considered under the category of General and the said correction would have been made as per

Rule 11(c) of the Act. The evidence of RW-2 Raj Kumar clarifies that no such opportunity was given which resulted in the nomination paper being accepted under the wrong category. Thus, materially affecting the result of the election. Besides, reliance was placed by learned counsel for the respondents on the judgment of Hon'ble the Apex Court rendered in the case, titled as *Mohinder Singh Gill vs. Chief Election Commissioner, New Delhi* AIR 1978 (SC) 851, wherein, the Hon'ble Supreme Court interpreted the clause 89(i)(d)(iv) of the Act, which is *pari materia* with Section 100(1)(d)(iv) of the Representation of the People Act, 1951 as residual clause i.e. "catch all clause" to add everything left over and exhaustive of all grievances regarding an election. In that case, the Election Commission, in exercise of powers vested under Article 324 of the Constitution of India, cancelled the poll already taken in the Constituency and extended the time for the completion of the election by ordering re-poll. The question was as to whether the same can be challenged under Article 226 of the Constitution of India or whether Section 100 of the Representation of the People Act, 1951 was broad enough to accommodate every kind of objection, constitutional, legal or factual which may have the result of invalidation of an election and the declaration of the petitioner as the returned candidate and direct the organisation of any steps necessary to give relief. The following three questions were framed in para 17 of the said judgment :-

"1. Is Article 329(b) a blanket ban on all manner of questions which may have impact on the ultimate result of the election, arising between two temporal termini viz., the notification by the President calling for the election and the declaration of the result by the returning officer? Is Article 226 also covered by this embargo and, if so, is S. 100 broad enough to accommodate every kind of objection, constitutional, legal or factual, which may have the result of invalidation

of an election and the declaration of the petitioner as the returned candidate and direct the organisation of any steps necessary to give full relief?

2. Can the Election Commission, clothed with the comprehensive functions under Article 324 of the Constitution, cancel the whole poll of a constituency after it has been held, but before the formal declaration of the result has been made, and direct a fresh poll without reference to the guidelines under Ss. 58 and 64 (a) of the Act, or other legal prescription or legislative backing. If such plenary power exists, as it exercisable on the basis of his inscrutable 'subjective satisfaction' or only on a reviewable objective assessment reached on the basis of circumstances vitiating a free and fair election and warranting the stoppage of declaration of the result and directions of a fresh poll not merely of particular polling stations but of the total constituency?

3. Assuming a constitutionally vested capacity under Article 324 to direct repoll, is it exercisable only in conformity with natural justice and geared to the sole goal of a free, popular verdict if frustrated on the first occasion? Or, is the Election Commission immune to the observance of the doctrine of natural justice on account of any recognised exceptions to the application of the said principle and unaccountable for his action even before the Election Court?"

In paras 83 and 84 of the above judgment, It was held as under :-

"83. Let us follow the appellants' apprehension for a while to test its tenability. He says that the Commissioner has no power to cancel the election to a whole constituency. Therefore, the impugned order is beyond his authority and in excess of his functions under Article 324. Moreover, even if such power exists it has been exercised illegally, arbitrarily and in violation of the implied obligation of audi alteram partem. In substance, his complaint is

that under guise of Article 324 the Commissioner has acted beyond its boundaries, in breach of its content and oblivious of its underlying duties. Such a mal-exercise clearly tantamounts to non-adherence to the norms and limitations of Article 324 and, if true, is a non-compliance with that provision of the Constitution. It falls within S. 100(1)(d)(iv). A generous, purpose-oriented, literally informed statutory interpretation spreads the wings of 'non-compliance' wide enough to bring in all contraventions, excesses, breaches and subversions.

84. We derive support for this approach from Durage Mehta case. The Court there considered the same words, in the same sections, in the same Statute. Sec. 100(2)(c) interpreted in that case re-incarnates as S. 100(1)(d)(iv) later. Everything is identical. And Mukherjea, J., explained (at p.524 of AIR).

“ It is argued on behalf of the respondent that the expression “non-compliance” as used in sub-section (2)(c) would suggest the idea of not acting according to any rule or command and that the expression is not quite appropriate in describing a mere lack of qualification. This, we think, would be a narrow way of looking at the thing. When a person is incapable of being chosen as a member of a State Assembly under the provisions of the Constitution itself but has nevertheless been returned as such at an election, it can be said without impropriety that there has been non-compliance with the provisions of the Constitution materially affecting the result of the election. There is no material difference between “non-compliance” and “non-observance” or “breach” and this item in clause © of sub-sec.(2) may be take as a residuary provision contemplating cases where there has been infraction of the provisions of the Constitution or of the Act but which have not been specifically enumerated in the other portions of the

clause.

“Lexical significations are not the last work in statutory construction. We hold that it is perfectly permissible for the Election to decide the question as one falling under Section 100(1)(d)(iv). A presumatic view of the Act and Article 324 helps discern `an organic synthesis. Law sustains, not fails.”

In the case of *Manda Jaganath vs. K.S. Ratham and others* AIR 2004 (SC) 3600, the dispute was with respect to the rejection of Form B filed by the petitioner candidate and Returning Officer refusing to allot party symbol to him. It was held that the order could not be interfered with in the writ petition and, therefore, should be assailed in election petition. Relying on the judgment of *M.S. Gill's* case (supra), held as follows :-

“XXX

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19. Learned counsel then contended that non-allotment of a symbol which the first respondent was legally entitled to would not be a ground of challenge available to him in the election petition under Section 100 of the Representation of the People Act, 1951 therefore the High Court is justified in entertaining the petition. We do not think this argument of learned counsel is correct because as has been held by this Court in *M.S. Gill's* case (supra) sub-clause 4 of Section 100(1)(d) of the Representation of the People Act, 1951 is widely worded residual clause which this Court in the said judgment of *M.S. Gill* case termed as “catch all clause”. It is further stated in the said judgment that the said section has been added to absolve everything left over and the same is exhaustive of all grievances regarding an election, hence, in our opinion this argument of learned counsel for the first respondent should also fail.”

It may be clarified that Section 100(1)(d) is *pari materia* with Section 89 of the Act.

In the case of *Harnek Singh vs. Charanjit Singh* AIR 2006 (SC)

52, it was held that non-compliance of the provisions of the Act in the process of the election is one of the grounds for an election petition. Thus, the entire dispute, as referred to above was on account of improper acceptance of the nomination form of the respondent under a wrong category and rejection of the same nomination paper under the category to which she belonged. The same materially affected the result. This error happened on account of the violation of Section 40, 41 and Rule 11 of the Act. Thus, the question herein was permissible to be decided only by the Election Tribunal i.e. the Election Tribunal was the only forum where the election could have been challenged under this ground.

At this stage, learned counsel for the appellant stated that the said ground should have been mentioned in the election petition. There is no merit in the argument raised by learned counsel for the appellant. No doubt that all the facts, which are essential for the petitioner with a complete cause of action should be pleaded. In the present case, all the material facts were pleaded. It is not necessary to state the words as contained in Section 89(1)(d) or Section 89(1) as long as all the material facts are mentioned in the plaint. It is on the material facts that the parties lead their evidence. The Tribunal will satisfy itself on the evidence and arrive at a conclusion whether the improper acceptance of the nomination paper under the wrong category and the rejection of the same under the correct category materially affected the result or not. It is a conclusion to be drawn by the Tribunal. This Court, in the case of *Avtar Singh vs. Harcharan Singh Brar and others* AIR (1994) Punjab and Haryana 161, held thus :-

“ Whether in an election petition, a particular fact is material or not, and as such required to be pleaded is a question which depends upon the nature of the charge levelled, the ground relied upon and the special circumstances of the case. In

short, all those facts which are essential to clothe the petitioner with a complete cause of action are "material facts" which must be pleaded, and failure to plead even a single material fact amounts to disobedience of the mandate of Section 83(1)(a) of the Act. Once all the material facts have been stated, as has been done in the present case, leading to the improper acceptance of the nomination papers of respondent No.1, then it would amount to a valid presentation of the petition containing concise statement of material facts on which the petitioner has relied upon in terms of Section 81(1) of the Act calling in question the election on any or more of the grounds specified in sub-section (1) of Section 100 and Section 101 of the Act. Material effect on the result of the returned candidate on improper acceptance of the nomination papers is a matter of proof on which the parties shall lead their evidence and the High Court if satisfied on the evidence led before it, comes to the conclusion that improper acceptance of the nomination paper has resulted in material effect on the result of the returned candidate then it shall declare the election to be void. The ingredients of Section 100(1)(d) of the Act is the conclusion to be reached by the High Court need not be stated in the petition specially where the allegations regarding improper acceptance of the nomination papers relate to the returned candidate himself."

Taking up the third argument of learned counsel for the appellant, there is no doubt from the perusal of nomination paper Exh. P-9 that the respondent-Jasbir Kaur had clearly mentioned in the nomination form against the relevant column as – Panch Lady General. The Returning Officer Raj Kumar appeared and stated in no certain terms that Jasbir Kaur wrote on her nomination papers as Panch Lady General. It was further stated that on 16.05.2008, there was a rush for filing of the



nomination paper as there were 168 candidates who had filed their nomination papers. It was also admitted that he had entered the election symbol of Kamaljit Kaur as Bus in the Register but stated in the same breath that it was deleted because she was not to be given the ballot paper.

The report of the Sub Divisional Magistrate, Hoshiarpur, is crystal clear that the Returning Officer has considered the nomination paper in the category of 'General Panch' by mistake. A perusal of Exhibit R-1 clearly shows that earlier the symbol of Bus was allotted to Kamaljit Kaur but subsequently, it was deleted, which also casts doubt. Thus, it appears that earlier the election was to be held between the two candidates i.e. Kamaljit Kaur and Jasbir Kaur, both having filed their nomination papers under the category of General Panch. Subsequently, the appellant was declared unopposed from the category of General Lady Panch by considering the respondent under 'General' category. There is no satisfactory evidence as to why the symbol of Bus allotted to Kamaljit Kaur was subsequently deleted. On the other hand, it is an admitted position that the entry in the nomination form against the proper column is as 'General Woman Panch'. Thus, by no stretch of imagination can the respondent be considered under any other category except as entered by her in the appropriate column. The respondent cannot be allowed to suffer on account of the mistake of a Returning Officer who considered the respondent against the post for General Panch. Nothing has come on record to show that the word 'General' was entered on the top of the nomination paper by the respondent or someone else or as a conspiracy or by the officers while trying to sort out the different forms. Fact remains that the entry against the appropriate column was 'General Lady Panch'. The entry against the appropriate column is the correct entry. Any other entry has to be ignored. In case there were contradictory entries made while

submitting the form, why was the form not rejected? It was accepted after due scrutiny. Obviously, it means that there was only one entry and the word 'General' in her column was probably entered later on for whatever reasons. The moment the respondent came to know that her name was being considered under the wrong category, she wasted no time and immediately made her complaint to the Deputy Commissioner. The said complaint was made before the date of the election i.e. 25-05-2008, whereas, the election was held on 26-05-2008. She lost interest in the election immediately. She did not contest the election thereafter. Thus, only one vote was polled. Her claim stand proved by the Returning Officer, Sub Divisional Magistrate, Hoshiarpur and the District Electoral Officer.

Therefore, in view of the facts and circumstances of the present case, I find no ground to interfere with the order dated dated 04-11-2008 passed by the Election Tribunal, Faridkot and the appeal is, accordingly, dismissed.

27.11.2009  
gurpreet

**(NIRMALJIT KAUR)**  
JUDGE