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

**CM-9687-CII-2026 in
FAO-6898-2025
Date of decision : 13.05.2026.**

KARAMJIT KAUR

....Appellant

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

**Present : Mr. Sukhjit Singh, Advocate
for applicant/respondent No.9.**

**Mr. Karamanbir Singh Kahlon, Advocate
for the non-applicant/petitioner.**

**Mr. H.P.S. Ishar, Addl. A.G., Punjab
for respondents No.1 to 3 & 5 to 8.**

**Mr. Vijay Kumar Chaudhary, Advocate
for respondent No.4.**

PANKAJ JAIN, J. (ORAL)

CM-9687-CII-2026

Prayer in this application is for preponement of the date of hearing in the main appeal.

For the reasons recorded in the application, the same is allowed.

Main appeal is preponed and taken on Board today itself for hearing.

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Counsels are *ad idem* that the election petition was decided without framing issues as required under law.



2. The issue w.r.t. necessity to frame issues while adjudicating the election petition has been deliberated upon in detail by this Court in **FAO No.523 of 2025** titled as **Sarbjeet Kaur vs. Kamaljit Kaur and others**, *decided on 01.08.2025* observing as under:

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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 is 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.”

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xxx”

3. In view of aforesaid dictum, the counsels are *ad idem* that the impugned order be set aside. Accordingly, the same is hereby set aside.



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The matter is remanded back to the Tribunal to decide the same afresh, in accordance with law.

4. Keeping in view the fact that the election petition is of the year 2024, this Court is sanguine that the election tribunal shall decide the same expeditiously preferably within a period of **six months**.

5. The parties shall appear before the Tribunal on **07.07.2026**.

6. The appeal is disposed off accordingly.

7. Pending application, if any, shall also stand disposed off.

May 13, 2026

Dpr

**(Pankaj Jain)
Judge**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No