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C.A.No. 4926 OF 2000  
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ITEM NO. 113 COURT NO. 5 SECTION IV

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 4926 OF 2000@@  
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Malkit Kaur ... Appellant (s)

Vs.

Jatinder Kaur and Ors. ... Respondent (s)

With C.A. No. 4927/2000@@  
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C.A. No. 4928/2000@@  
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( With prayer for interim relief )

Date: 20-11-2001 This/These matter(s) was/were called  
on for hearing today.

CORAM :  
HON'BLE MR. JUSTICE V.N. KHARE  
HON'BLE MR. JUSTICE ASHOK BHAN

For appellant (s)  
in CA 4926 & res.  
in CA 4927-28 Ms. Suruchii Aggarwal, adv.  
  
in CA 4927-28 & res. Mr. AV Palli, adv.  
Nos.4&6 in CA 4926 Mr. Atul Sharma, adv.  
for Ms. Rekha Palli, adv.  
  
For State of Punjab Mr. LK Pandey, adv.  
Mr. CK Virmani, adv.  
for Mr. RS Suri, adv.  
  
For respondent (s)  
No. 1 in CA 4926 & Mr. AK Panda, Sr.adv.  
No. 6 in CA 4927-28 Mr. SK Pabby, adv.  
Mr. SK Sabharwal, adv.

UPON hearing counsel, the Court made the following  
O R D E R

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The appeals are dismissed. There shall be no order  
as to costs.

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(Alka Dudeja) (S. Krishnan)  
Court Master Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4926 OF 2000

Malkit Kaur .. Appellant

-vs-

Jatinder Kaur & Ors. .. Respondents

(With CA No.4927/2000 & CA No.4928/2000)

O R D E R

C.A. No.4926/2000:

The appellant and respondent no.1 herein were the contesting candidates at an election for office of Sarpanch of Gram Panchayat, Village Nathuwala Jadid, Tehsil and District Moga in the State of Punjab. On 21.6.98 the polling took place. It is alleged that after counting of votes was completed the appellant was orally declared to have received 691 votes, whereas respondent no.1 secured 489 votes. However, subsequently in Form IX, prepared under Rule 33(1)(e) of the Punjab Panchayat Election Rules, 1994, respondent no.1 was shown to have received 691 votes whereas the appellant was shown to have received 489 votes. Consequently, respondent no.1 was declared elected as Sarpanch of the Gram Panchayat. It is not disputed that Form IX was signed by the Returning Officer as well as by the contesting candidates. It appears that the appellant thereafter approached the Additional Deputy Commissioner, Moga, complaining that the declaration of election of respondent no.1 was by mistake as in fact she had received 691 votes and she ought to have been shown and declared elected as Sarpanch in Form IX prepared and signed by the Returning Officer. It appears that on that representation the Additional Deputy Commissioner called for the Returning Officer, who after two days of the declaration of result corrected Form IX and wrote therein that the appellant has received 691 votes and respondent no.1 received 489 votes and declared the appellant as duly elected Sarpanch of the Gram Panchayat. Aggrieved respondent no.1 filed a writ petition challenging the subsequent order passed by the Returning Officer, whereby the appellant was declared elected as Sarpanch. The High Court found that the subsequent order passed by the Returning Officer correcting the earlier declaration was not in accordance with law and, therefore, set aside the impugned order. Consequently, the writ petition was allowed. While allowing the writ petition, the High Court also adversely commented on the conduct of appellants in C.A. Nos.4927 and 4928/2000 respectively and directed to pay costs of Rs.25,000/- each. It is against the said judgment of the High Court the appellants have preferred these appeals.

Learned counsel appearing for the appellant urged that earlier there being mistake and error in form IX prepared by the Returning Officer, the authority was justified in law to correct the form IX subsequently and the High Court committed error in setting aside the subsequent order of the Returning Officer. We do not find any substance in the argument. Under the Act and the Rules thereunder once a candidate has been declared elected in form IX, the Returning Officer ceases to have any power to alter the said declaration subsequently. The declaration as contained in form IX could only be challenged by means of an election petition before an appropriate tribunal. In that view of the matter, we do not find any merit in this appeal.

The appeal fails and is, accordingly, dismissed. There shall be no order as to costs.

CA Nos.4927 and 4928/2000:

Learned counsel urged that while retaining the order of award of costs, the stricture and direction issued to the State Government for taking a disciplinary action against the appellants by the High Court be set aside. We do not find any good ground to interfere with the judgment of the High Court.

Consequently, these appeals fail and are, accordingly, dismissed. There shall be no order as to costs.

& & & & & & & J.  
(V. N. Khare)

& & & & & & & J.  
(Ashok Bhan)

New Delhi;  
November 20, 2001

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