

AMARJIT SINGH  
v.  
CHARANJIT SINGH AND ORS.

JANUARY 8, 2004

[V.N. KHARE, CJ. AND S.H. KAPADIA, J.]

*Punjab Municipal (President and Vice President) Election Rules, 1994:*

*Re-poll—Voting taking place by show of hands—One of the members having cast his vote by show of hands in favour of the original petitioner and his vote recorded and counted—Presiding Officer directing for recounting of votes—Held, Presiding Officer could not have directed for re-poll in the garb of recounting of votes—High Court has rightly held that under the Rules, it was not permissible for Presiding Officer to change the vote of the member concerned once it was recorded in favour of the original petitioner.*

*Election:*

*Voting at meetings—In common law voting at all meetings is by a show of hands—Once the Chairman or the Presiding Officer records the vote and, after counting the votes, declares the result, it is conclusive and it can be challenged only by a demand for poll—If the demand is not made, Chairman's declaration will stand.*

*Blackwell's Law of Meetings-9th Edn. Page 60; Shackleton on The Law and Practice of Meetings-8th Edn. Page 60-62 and The Rules of Debate in The Parliament of France by D.W.S. Lidderdale, page 145, referred to.*

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)  
No. 2003.

From the Judgment and Order dated 21.10.2003 of the Punjab and Haryana High Court in C.W.P. No. 5640 of 2003.

Davinder Kaushal for A.P. Mohanty for the Petitioner.

The following Order of the Court was delivered :

A It is not disputed that the polling had taken place by show of hands. It is also not disputed that the vote of Sher Singh, who cast his vote by show of hand for the respondent, was recorded and recorded votes were counted. Under such circumstances, the Presiding Officer could not have directed for re-poll in the garb of recounting of votes. We are of the view that the High Court has taken a correct decision.

B

Before concluding, we may usefully refer to Blackwell's Law of Meetings-9th Edition, page 60. In common law voting at all meetings is by a show of hands. Voting by show of hands means counting the persons present who are entitled to vote and who choose to vote by holding up (raising) their hands. Any person having legal right to be present at the meeting may, at the conclusion of the voting, demand a poll and the Chairperson is the proper person to grant or refuse a poll which is in the nature of an appeal by one of the parties dissatisfied with the decision of the Chairperson upon the show of hands. In modern parliamentary usage a motion is carried by acclamation or by show of hands. The Chairman or the Presiding Officer asks those present to indicate their vote or choice by holding up their hands. Once the Presiding Officer records the votes and, after counting the votes, declares the result, it is conclusive and it can be challenged only by a demand for poll. If the demand is not made, the Chairman's declaration will stand (see: *Shackleton On The Law And Practice of Meetings—8th Edition, pages 60-62.*) Once a motion has been voted upon, it becomes a resolution of the meeting. The result of a vote once announced is final (see: *The Rules of Debate in the Parliament of France by D.W.S. Lidderdale, page 145*). In the present case, we are in agreement with the view expressed by the High Court that it was not permissible for the Presiding Officer to change the vote of Sher Singh once it has been recorded in favour of the original petitioner under Punjab Municipal (President and Vice-President) Election Rules, 1994.

For foregoing reasons special leave petition is accordingly dismissed.

R.P.

Petition dismissed.