
(2007) 04 MP CK 0029
In the Madhya Pradesh High Court

Ku. Parwati Bai Thakur

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 05-04-2007

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Representation of the People Act, 1951 — Section 81

Citation : (2007) 3 MPHT 63

Hon'ble Judges : Shantanu Kemkar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Shantanu Kemkar, J.—Heard.

2. By filing this petition under Article 226/227 of the Constitution of India the petitioner has challenged the order dated 20-9-2006 passed by the Additional Commissioner, Jabalpur Division in Case No. 298-B-121/2004-05.

3. The third respondent had filed an election petition u/s 122 of the M.P. Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 ("Act" for short) before the second respondent Prescribed Authority under the Act, challenging the election of the petitioner on the post of President, Zila Panchayat, Jabalpur. In the said election petition the petitioner filed a preliminary objection in regard to the maintainability of the election petition on the ground of non-compliance of Rule 3(2) of M.P. Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 (for short "Rules"). The said objection was rejected by the second respondent vide order dated 13-1-2006 (Annexure P-4). Against the said order the petitioner filed a Writ Petition No. 3380/2006 before this Court. The said writ petition was allowed vide order dated 3-4-2006 and the order dated 13-1-2006 passed by the second respondent was quashed and the matter was remitted to the second respondent to consider and decide the petitioner's objection by a speaking order.

4. Pursuant to the aforesaid directions of this Court the second respondent reconsidered the petitioner's objection and vide order dated 20-9-2006 (Annexure P-6) rejected the same and fixed the case for recording evidence. Feeling aggrieved the petitioner has filed this petition.

5. The petitioner contends that the second respondent has not properly considered her objection and failed to consider that the third respondent has not supplied the copy of the petition by duly verifying it to be true copy. The Election Officer has not been arrayed as respondent in the election petition, in the circumstances, the election petition was not maintainable.

6. Having heard the learned Counsel for the parties, I find that the petition has no merit. A perusal of the copy of the election petition (Annexure P-1) which was accompanied with the election petition and was supplied to the petitioner, reveals that on each and every page the third respondent has put her signature. In the circumstances, mere non-mention of "true copy" would not be sufficient to hold that the Rule 3(2) of the Rules has not been complied with. In the case of Ch. Subbarao Vs. Member, Election Tribunal, Hyderabad, the Supreme Court held that as the signature in original was there in the copy, the presence of such original signature in the copy was sufficient to indicate that the copy was attested as a true copy, even though the words "true copy" were not written above the signature in the copies. The Supreme Court considering the matter under Sections 81(3) and 90 of the Representation of People Act, 1951, further held that there was substantial compliance of Section 81(3) of the Representation of People Act and the petition could not be dismissed u/s 90(3) of the Representation of People Act, 1951. The facts of this case shall apply with full force to the facts of the present case. In the circumstances, it can be safely held that there is substantial compliance of Rule 3(2) of the Rules.

7. As regards the objection that the Election Officer has not been made party in the election petition, in my view the Election Officer is not required to be joined as respondent in the election petition in view of the Rule 4 of the Rules. Thus no interference in the impugned order is made out.

8. Accordingly, the writ petition being devoid of any merit is dismissed. The second respondent Additional Commissioner is expected to decide the election petition as expeditiously as possible.

No order as to costs.