

(2010) 10 RAJ CK 0021

In the Rajasthan High Court

Case No : Civil Writ Petition No. 8931 of 2010

Nirbhay Singh

APPELLANT

Vs

Sanjay Singh and Others

RESPONDENT

Date of Decision : 04-10-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 16, Order 7 Rule 11
Rajasthan Panchayati Raj (Election) Rules, 1996 — Rule 80
Rajasthan Panchayati Raj Act, 1994 — Section 43

Citation : (2010) 10 RAJ CK 0021

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Judgement

Govind Mathur, J.—By the order dated 25.8.2010, learned Single Judge (Sr. Div.), Nathdwara has rejected a composite application submitted by the petitioner as per Order 6 Rule 16 and Order 7 Rule 11 Code of Civil Procedure. The application aforesaid was preferred in an election petition submitted as per provision of Section 43 of the Rajasthan Panchayati Raj Act, 1994 (for short "the Act of 1994" hereinafter).

2. The factual matrix necessary to be noticed is that respondent Sanjay Singh by way of filing an election petition assailed election of petitioner as Sarpanch, Gram Panchayat, Lal Madri on various grounds. In the election petition aforesaid, the petitioner preferred an application as per Order 6 Rule 16 to struck off the averments contained in paras No. 3, 6, 7 and 8 of the petition and also to reject the petition being failing to make out any cause. The court below after considering the arguments advanced by the counsel for the parties rejected the application and while challenging the same, it is contended that the allegations in the election petition are quite cursory, vague and frivolous and as such, on basis of such speculative averments, an election petition cannot be maintained. It is also urged that the grounds taken in the election petition in no manner disclose any reason as prescribed by Rule 80 of the Rajasthan Panchayati Raj (Election) Rules, 1996 (for short "the Rules of 1996" hereinafter) to maintain an election

petition.

3. I have examined the order impugned and also the other documents annexed with the petition for writ including the election petition.

4. From perusal of the averments contained in paras No. 3, 4, 5 and 6 of the election petition, it is apparent that definite allegations are made by the respondent - election petitioner and they certainly comes within the purview of corrupt practice as referred in Rule 80 of the Rules of 1996. The nature of allegations as appears from perusal of the averments contained in the election petition is not speculative and it cannot be said that it does not disclose any cause that requires adjudication.

5. In these circumstances, the court subordinate has not committed any error while passing the order impugned, thus, no interference of this Court while exercising power under Article 227 of the Constitution of India is warranted, the petition for writ is dismissed accordingly.