

(1988) 08 P&H CK 0129
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7408 of 1987

Ravinder

APPELLANT

Vs

Deputy Commissioner and Others

RESPONDENT

Date of Decision : 02-08-1988

Acts Referred:

Haryana Municipal Election Rules, 1978 — Rule 75, 75(1), 78, 79

Citation : (1989) 1 ILR (P&H) 22

Hon'ble Judges : M.M. Punchhi, J; Amarjeet Chaudhary, J

Bench : Division Bench

Advocate : R.A. Yadav, for the Appellant; S.S. Ahlawat, D.A.G. for Respondents 1 and 2 and M.L. Saini, for the Respondent

Final Decision : Dismissed

Judgement

M.M. Punchhi, J.—The Petitioner in order to challenge a municipal election which took place on August 30, 1987, presented an election petition before the Deputy Commissioner on September 21, 1987. The Deputy Commissioner refused to accept the presentation on the ground that it was barred by limitation, the same being beyond 14 days as prescribed under Rule 75 of the Haryana Municipal Election Rules, 1978. The Deputy Commissioner under the proviso to Sub-rule (1) of Rule 75 could extend the period of limitation not exceeding 30 days if there were, in his opinion, sufficient grounds for such extension. By virtue of the impugned order Annexure P-3 he opined that there were no sufficient grounds to extend the period of limitation simply because the Petitioner had been busy in procuring certified copies of documents in the meantime. It transpires that the Petitioner did not promptly apply for obtaining certified copies and rather made an application for the purpose on September 9, 1987, which were obtained on September 14, 1987. It is plain that the Petitioner wasted 9 days before the presentation of the application for obtaining copies and after having obtained them wasted further seven days for presenting the election petition. The Deputy Commissioner, in these circumstances, refused to accept the presentation. The

learned Counsel for the Petitioner says that the decision of rejection passed by the Deputy Commissioner Annexure P-3 violates Rules 78 and 79 inasmuch as the Deputy Commissioner was required to forward every election petition received under Rule 75 to the State Government and in case the provisions of Sub-rule (1) of Rule 75 have not been complied with the State Government shall pass an order dismissing the election petition and such order shall then be final. Here it is complained that the Petitioner's belated presentation of the election petition was a violation of Sub-rule (1) of Rule 75 and the Deputy Commissioner was required to send the petition for dismissal by the State Government. Though the argument apparently seems attractive but on closer scouting does not stand to reason. The stress in Sub-rule (1) of Rule 75 is on presentation of the petition within the period of limitation. A petition which is not presented within the period of limitation is as good as a petition not in the hands of the Deputy Commissioner and if that is so, there is nothing for him to forward to the State Government. It is only a presented petition, which lacks particulars of the kind mentioned in Sub-rule (1) of Rule 75, which would warrant to be sent to the State Government in case of any infirmity therein. No such occasion has arisen in the instant case. We are, therefore, satisfied that the Deputy Commissioner refusing to entertain petition of the Petitioner on presentation was perfectly right. For these reasons, this petition as also connected CWP No. 7409 of 1987, which is on identical facts, are dismissed in limine.