
(2010) 06 CHH CK 0027
In the Chhattisgarh High Court
Case No : Writ Petition (227) No. 2997 of 2010

Rekha Rupa Sahu (Smt.)	Vs	APPELLANT
Vineet Bafna and Others		RESPONDENT

Date of Decision : 28-06-2010

Acts Referred:

chhattisgarh Panchayat (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 — Rule 3, 4, 5, 7, 8
Panchayat Raj Adhiniyam, 1993 — Section 122

Citation : (2011) 1 MPJR 134

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S.K. Agnihotri, J.

The petitioner impugns the order dated 6/4/2010. (Annexure P-13) whereby an election petition filed by the petitioner was dismissed summarily.

The brief facts in nutshell are that the petitioner being aggrieved by the election on the post of Janpad Member, Janpad panchayat for Janpad Circle No. 3, Magarlod, District Dhamtari, preferred an election petition on the grounds that several irregularities were committed in counting of votes, wherein the returned candidate respondent No. 1 has obtained 822 votes and the petitioner has obtained 819 votes. Thus, the respondent No. 1 was declared as elected Janpad Member, Being aggrieved, the petitioner preferred an election petition under provisions of section 122 of Panchayat Raj Adhiniyam, 1993 before the Collector i.e. respondent No. 16. The said petition, was dismissed on 6/4/2010.

Rule 3 of the Chhattisgarh Panchayats (Election Petitions, Corrupt Practices And Disqualification For Membership) Rules, 1995 (in short Rules, 1995) provides for presentation of election petition. It provides that an election petition shall be presented by the person making the petition or by a person authorized in writing

in this behalf by the person making the petition. Further, the petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition.

Rule 5 of the Rules, 1995 makes a provision for contents of the petition wherein it is prescribed, inter alia, that the election petition shall be signed by the petitioner and verified in the manner laid down in the Code of Civil procedure, 1908 for the verification of pleadings, Rule 8 of the Rule, 1995 provides that if the provisions of Rule 3 or Rule 4 or Rule 7 has not been complied with, the petition shall be dismissed by the specified officer provided that the petition shall not be dismissed under this rule without giving the petitioner an opportunity of being heard.

The petitioner has sought relief of recounting of votes in the election petition (Annexure P-10). The respondent No. 1 filed objection seeking dismissal of the petition summarily under the provisions Rule 8 of the Rules, 1995 on the ground that there is no compliance of provisions of Rule 3, 4 of the Rules, 1995.

The Collector (respondent No. 16) having afforded opportunity of hearing on 4/3/2010, 9/3/2010 and further on 25/3/2010, after having considered all the aspects of the matter, come to the conclusion that the Advocate of the petitioner was not authorized to file election petition and secondly, the election petition and other annexed documents were not duly signed and attested by the election petitioner. Having regard to the above stated facts, the election petition was dismissed summarily under Rule 8 of the Rules, 1995 for want of compliance of the provisions of rule 3 of the Rules, 1995.

It is indisputable that the election petition was not attested by the petitioner on each and every page of the election petition, except it was duly signed by the election petitioner on the last page of the petition. Thus, the petitioner failed to comply with the provisions of Rule 3 and 5 of the Rules, 1995.

Having considered the case from all angle, this Court is of the view that there is no irregularity or infirmity in dismissal of the election petition vide impugned order dated 6/4/2010 (Annexure P-13).

The contention of the petitioner that he should have been given one more opportunity to file fresh election petition under the scheme of election deserves to be rejected as there is not provision for granting an opportunity after dismissal of the petition to file a fresh petition. Thus, the election petition of the petitioner was rightly dismissed under Rule 8 of Rule, 1995 summarily.

In view of the foregoing and for the reasons stated hereinabove, the writ petition is dismissed.