
(1995) 02 MP CK 0049

In the Madhya Pradesh High Court

Case No : L.P.A. No's. 141 to 143 of 1994

State Election Commission, Bhopal

APPELLANT

Vs

Ras Bihari Raghuwanshi and Others

RESPONDENT

Date of Decision : 03-02-1995

Acts Referred:

Constitution of India, 1950 — Article 14, 243K, 243O
Madhya Pradesh Panchayat Election Rules, 1994 — Rule 17(3), 33(6), 43
Madhya Pradesh Panchayat Raj Adhiniyam, 1994 — Section 42, 43

Citation : AIR 1995 MP 245 : (1995) J LJ 651 : (1996) 41 MPLJ 966 : (1996) MPLJ 966

Hon'ble Judges : U.L. Bhat, C.J.; R.S. Garg, J

Bench : Division Bench

Advocate : S.L. Saxena, for the Appellant; S.S. Garg, for the Respondent

Final Decision : Dismissed

Judgement

U.L. Bhat, C.J.

These appeals are filed by the State Election Commission constituted under Article 243K of the Constitution and Section 42 of the M. P. Panchayat Raj Adhiniyam, 1994 (for short "the Act") against the common order passed by the learned Single Judge in W. P. Nos. 2102/94, 2100/94 and 2101/94 filed by the respective first respondents in these appeals.

The cases arise in regard to the election for the post of one Sarpanch in each of three Panchayats, Utiyakalan, Ahmadpur and Maheshwar respectively. We will refer to the facts in L. P. A. No. 142/94 which relates to a seat reserved for ladies. Three ladies, namely, first respondent Pramilabai, fifth respondent Manoramabai and one Shakunbai, filed nominations. On the day of scrutiny of nominations namely, 3-5-1994, the nominations of Manoramabai and Shakunbai were rejected by the Returning Officer, thereby leaving only one candidate with a valid nomination. Rejection of nomination papers was effected because of alleged unauthorised over-writing in the nomination papers in regard to serial number

and the ward number in the voters lists of the candidate and the proposer. 5-5-1994 was the last date fixed for withdrawal of candidature and 7-6-1994 was the date fixed for polling. After the expiry of the last day for withdrawal, Returning Officer shall prepare and publish in the prescribed forms a list of contesting candidates whose nominations have been finally accepted and who have not withdrawn their candidature within the period prescribed, and list of contesting candidates shall be affixed on the notice board of the office of the Returning Officer and copies supplied to the contesting candidates. If for any seat there remains only one candidate whose nomination is found valid, Returning Officer shall forthwith declare the candidate duly elected to fill the seat and inform the Commission through District Election Officer. That could have been done only after the time prescribed for the withdrawal of nominations on 5-5-1994. A voter complained to the District Returning Officer regarding the rejection of nomination papers and the letter reported to the Secretary to the Commission. The Commission on 20-5-1994 took a decision to countermand the election and to order re-election on the ground that nomination paper had been tampered with by an election Officer. The writ petition was filed on 28-5-1994 seeking to quash the order and seeking a direction for declaration of results of the election.

In the two other cases also, all but one of the nominations filed for each of the sets were rejected for a similar reason and the Election Commission took a similar decision. Writ petitions were filed seeking similar reliefs as in W. P. No. 2100 of 1994.

The writ petitioners contended before the learned single Judge that the decision of Returning Officer being final, the Election Commission could not have interfered with the remaining process of election which consisted of declaration of the results, that once election process commenced no authority can impede the same, that the impugned decisions were in violation of principles of natural justice inasmuch as the sole candidate whose nomination paper was accepted was not given an opportunity and the Commission had no jurisdiction to countermand election and order re-election which could be secured only by filing an election petition. The Election Commission rebutted these submissions and asserted that the general power of superintendence or control vested in it included also the power to countermand election and order fresh election, such an act done during the process of election cannot be challenged in Court as sought to be done by the petitioners. It is also contended that since one of the election officers himself was responsible for the tampering of nomination papers, it was necessary that the Election Commission should interfere.

Learned single Judge on review of the provisions of the Constitution and the statute and the relevant rules held -

(a) that the impugned decision to countermand the election was in violation of principles of natural justice, since the petitioner should have been given notice which was not done,

(b) that Election Commission has power to countermand the election only in one contingency as contemplated in Rule 43 of the Rules and in no other contingency,

(c) that the election process was complete and the declaration had to follow and as declaration was only a matter of course after the completion of election process it could not have been countermanded, and the only remedy under the circumstances for an aggrieved party was to file an election petition, and

(d) the order of the Returning Officer being final, the Election Commission has no right to sit in judgment.

On the basis of these findings, the learned Single Judge quashed the impugned orders countermanding the elections and ordering fresh elections. This order is now challenged. The amplitude of the power of the Election Commission vis-a-vis countermanding election on the ground of alleged wrongful rejection of nomination papers by Returning Officer arise for consideration in these appeals.

M. P. Panchayat Raj Adhiniyam, 1994 has been enacted in accordance with the provisions of Part IX of the Constitution incorporated by the Constitution 73rd Amendment Act, 1992. The power to make appropriate provisions with respect to composition of Panchayats, reservations of seats, powers of authority and responsibility of the Panchayats, composition of Finance Commission, audit of accounts etc. have been conferred by various articles in part-IX of the Constitution. Clauses (1) to (4) of Article 243(K) of the Constitution which are relevant for each purpose read as follows:

"243-K. Elections of the Panchayats-(1) The Superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the " Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

(2) Subject to the provisions of any law made by the Legislature of a State, the condition of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine :

Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1).

(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats."

These provisions are in pari-materia with Arts. 324 and 328 of the Constitution

dealing with the powers of the Election Commission of India.

Bar to interference by courts in electoral matters relating to Panchayats is contained in Article 243(O). The same reads as follows:

"243-O -- Bar to interference by Courts in electoral matters -

Notwithstanding anything in this Constitution -

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 243K, shall not be called in question in any court;

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State."

Parallel provision in regard to election to State Legislature is Article 329 of the Constitution.

Section 42 of the Act reads thus:

"Section 42 -- Commission conduct of election -- The Superintendence, direction and control of the preparation of electoral rolls for and the conduct of all elections to the Panchayats shall be vested in the State Election Commission."

The language used is the same as that used in Article 243 K and Article 329 of the Constitution.

Section 43 of the Act confers on the Government power to make rules with regard to various matters relating to or in connection with election to Panchayats. Accordingly, the M. P. Panchayat Election Rules, 1994 have been promulgated. It would be useful to refer to Rule 17(3). Rule 17(3) of the Rules reads as follows;

"Rule 17(3) -- Notwithstanding anything contained in these rules, the Commission may issue such special or general orders or directions which may not be inconsistent with the provisions of the Act for fair and free elections."

The rule derives support from Section 42 of the Act under Article 243K of the Constitution. We may also in this connection refer to Rule 43 which deals with the power of the Returning Officer, to countermand poll on the death of a contesting candidate. Rule 43 reads thus :

"R, 43. Death of candidates before poll --Poll shall not be countermanded due to death of a contesting candidate before the commencement of poll. But if as a result of death of the contesting candidate for any seat there remains only one contesting candidate, the Returning Officer (Panchayat) shall upon being satisfied of the death of candidate countermand the poll and report the fact to the Commission through the District Election Officer (Panchayat) and all proceedings with reference to the election shall be commenced anew in all respects as if for a

new election in accordance with the rules hereinbefore.

Provided -

(i) no further nomination shall be necessary in case of a person who was a contesting candidate at the time of the countermanding of the poll; and

(ii) no person who has given a notice of withdrawal of his candidature under Sub-rule (1) of Rule 34 before the countermanding of the poll, shall be ineligible for being nominated as a candidate for the election after such countermanding,"

The question of amplitude of the power of Election Commission of India is no longer res-integra. The earliest decision of Supreme Court which dealt with this aspect is the one in N.P. Ponnuswami Vs. Returning Officer, Namakkal Constituency and Others, . A candidate in the election to the Legislative Assembly whose nomination paper was rejected moved the High Court under Article 226 of the Constitution, which was dismissed on the ground of lack of jurisdiction in view of Article 329 of the Constitution. Fazal Ali, J. who spoke for the Court dealt with the meaning of the expression "election" in the following manner, after referring to the meaning in the narrow sense and the wide sense (at p. 68, para 7):

"It seems to me that the word "Election" has been used in Part XV of the Constitution in the wide sense, that is to say, to connote the entire procedure to be gone through to return a candidate to the legislature. The use of the expression "conduct of elections" in Article 324 specifically points to the wide meaning and that meaning can also be read consistently in to the other provisions which occur in Part XV, including Article 329(b)."

After referring to a passage from Halsbury's Laws of England, learned Judge held (at p. 68, para 7) :

"The discussion in this passage makes it clear that the word "election" can be and has been appropriately used with reference to the entire process which consists of several stages and embraces many steps, some of which may have an important bearing on the result of the process."

Dealing with the question of bar under Article 329(b), the learned Judge observed :

"It seems to me that under the election law, the only significance which the rejection of a nomination paper has consists in the fact that it can be used as a ground to call the election in question. Article 329(b) was apparently enacted to prescribe the manner in which and the stage at which this ground, and other grounds which may be raised under the law to call the election in question, could be urged. I think it follows by necessary implication from the language of this provision that those grounds, cannot be urged in any other manner, at any other stage and before any other Court. If the grounds on which an election can be called in question could be raised at an earlier stage and errors, if any, are

rectified, there will be no meaning in enacting a provision like Article 329(b) and in setting up a special Tribunal."

Learned Judge further observed (Para 11 of AIR):

"Obviously, the Act is a self-contained enactment so far as elections are concerned, which means that whenever we have to ascertain the true position in regard to any matter connected with elections, we have only to look at the Act and the rules made thereunder."

The conclusion was (para 12 of AIR) :

"That being so, I think it will be a fair inference from the provisions of the Representation of the People Act to state that the Act provides for only one remedy, that remedy being by an election petition to be presented after the election is over, and there is no remedy provided at any intermediate stage.

The above decision has been followed by another Constitution Bench of the Supreme Court in *Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others*, . Paragraph 91 of the judgment of V.R. Krishna Iyer, J. summarises the conclusions of the Constitution Bench. It is held that :

"1(a) Article 329(b) is a blanket ban on litigative challenges to electoral steps taken by the Election Commission and its officers for carrying forward the process of election to its culmination in the formal declaration of the result.

(b) Election, in this context, has a very wide connotation commencing from the Presidential notification calling upon the electorate to elect and culminating in the final declaration of the returned candidate.

2(a) The Constitution contemplates a free and fair election and vests comprehensive responsibilities of superintendence, direction and control of the conduct of elections in the Election Commission. This responsibility may cover powers, duties and functions of many sorts, administrative or other, depending on the circumstances.

(b) Two limitations at least are laid on its plenary character in the exercise thereof. Firstly, when Parliament or any State Legislature has made valid law relating to or in connection with elections, the Commission, shall act in conformity with, not in violation of, such provisions but where such law is silent Article 324 is a reservoir of power to act for the avowed purpose of, not divorced from, pushing forward a free and fair election with expedition. Secondly, the Commission shall be responsible to the rule of law, act bona fide and be amenable to the norms of natural justice in so far as conformance to such canons can reasonably and realistically be required of it as fairplay-in-action in a most important area of the constitutional order, viz. elections. Fairness does import an obligation to see that no wrong-doer candidate benefits by his own wrong. To put the matter beyond doubt, natural justice enlivenes and applies to the specific

case of order for total re-poll, although not in full panoply but in flexible practicability. Whether it has been complied with is left open for the Tribunal's adjudication.

The conspectus of provisions bearing on the subject of elections clearly expresses the rule that there is a remedy for every wrong done during the election in progress, although it is postponed to the post election stage and procedure as predicated in Article 329(b) and the 1951 Act. The Election Tribunal has, under the various provisions of the Act, large enough powers to give relief to an injured candidate if he makes out a case and such processual amplitude of power extends to directions to the Election Commission or other appropriate agency to hold a poll, to bring up the ballots or do other things necessary for fulfilment of the jurisdiction to undo illegality and injustice and to complete justice within the paramaters set by the existing law."

Goswami, J. observed as follows in paragraph 121 :

"..... it is well-settled that election covers the entire process from the issue of the notification u/s 14, to the declaration of the result u/s 66 of the Act. When a poll that has already taken place has been cancelled and a fresh poll has been ordered, the order therefore, with the amended date, is passed as an integral part of the electoral process. We are not concerned with the question whether the impugned order is right or wrong or invalid on any account. Even if it is a wrong order it does not cease to be an order passed by a competent authority charged with the conduct of elections with the aim and object of completing the elections. Although that is not always decisive, the impugned order itself shows that it has been passed in the exercise of power under Article 324(1) and Section 153 of the Act. That is also the correct position. Such an order, relating, as it does, to election within the width of the expression as interpreted by this Court, cannot be questioned except by an election petition under the Act."

Learned Judge observed in paragraph 122 as follows, with reference to the prayer for declaration of the result on the basis of poll which has been cancelled :

"This is nothing short of seeking to establish the validity of a very important stage in the election process, namely, the poll which has taken place and which was countermanded by the impugned order. If the appellants succeed, the result may, if possible, be declared on the basis of that poll, or some other suitable orders may be passed. If they fail, a fresh poll will take place and the election will be declared on the basis of the fresh poll. This is, in effect, a vital issue which relates to questioning of the election since the election will be complete only after the fresh poll on the basis of which the declaration of the result will be made. In other words, there are no two elections, as there is only one continuing process of election. If, therefore, during the process of election, at an intermediate or final stage, the entire poll has been wrongly cancelled and a fresh poll has been wrongly ordered, that is a matter which may be agitated after declaration of the result on the basis of the fresh poll, by questioning the election

in the appropriate forum by means of an election petition in accordance with law. The appellants, then, will not be without a remedy to question every step in the electoral process and every order that has been passed in the process of the election including the countermanding of the earlier poll."

In *A. C. Jose v. Sivan Pillai* AIR 1984 SC 951, the Court explained the Constitutional position as follows (at p. 927) :

"(a) When there is no Parliamentary legislation or rule made under the said legislation, the Commission, is free to pass any orders in respect of the conduct of elections.

(b) where there is an Act and express rules made thereunder, it is not open to the Commission to override the Act or the Rules and pass orders in direct disobedience to the mandate contained in the Act or the Rules. In other words, the powers of the Commission are meant to supplement rather than supplant the law (both statute and Rules) in the matter of superintendence, direction and control as provided by Article 324.

(c) Where the Act or the Rules are silent, the Commission has no doubt plenary powers under Article 324 to give any direction in respect of the conduct of election, and

(d) where a particular direction by the Commission is submitted to the Government for approval, as required by the Rules, it is not open to the Commission to go ahead with implementation of it at its own sweet will even if the approval of the Government is not given."

The Court followed the observations of the Constitution Benches in *N.P. Ponnuswami Vs. Returning Officer, Namakkal Constituency and Others*, and *Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others*, and observed (at p. 926, para 21) :

"Indeed, if we were to accept the contention of the respondents, it would convert the Commission into an absolute despot in the field of election so as to give directions regarding the mode and manner of elections by passing the provisions of the Act and the Rules purporting to exercise powers under cover of Article 324. If the Commission is armed with such unlimited and arbitrary powers and if it ever happens that the person manning the commission shares or is graded to a particular ideology, he could by giving odd directions cause a political havoc or bring about a constitutional crisis, setting at naught the integrity and independence of the electoral process, so important and indispensable to the democratic system."

The Court further observed in paragraph 24. as follows:

"When the Act and the Rules prescribed a particular method of voting, the Commission could not innovate a new method and contend that use of the mechanical process was not covered by the existing law and, therefore, did not

come in conflict with the law in the field."

In *Kanhiya Lal Omar Vs. R.K. Trivedi and Others*, , the Court observed as follows :

"The general powers of superintendence, direction and control of the elections vested in the Commission under Article 324(1) naturally or subject to any law made under either under Article 327 or under Article 328 of the Constitution. The word "election" in Article 324 is used in a wide sense so as to include the entire process of election which consists of several stages and it embraces many steps, some of which may have an important bearing on the result of the process."

A recent decision of the Supreme Court is the one in *S.R. Bommai and others Vs. Union of India and others etc. etc.*, . It was observed in paragraph 245 (of SCC) : (at p. 3121, para 180 of AIR SCW) that -

"the exercise of the power either under Article 226 or Article 32 or Article 136 staying the elections to the dissolved assembly under Article 356 not only flies in the face of the Constitutional mandate and the law laid by this Court, but creates uncertainty and constitutional crises."

The Court also observed that all the election disputes would be solved in accordance with the Representation of People Act.

Conduct of election is dealt with in Chapter VI of the Rules. Nomination paper is to be filed as provided in Rules 29 and 30 along with deposits under Rule 31. The date is to be fixed for scrutiny of nominations as required under Rule 32. Scrutiny is to be made in accordance with Rule 33 after providing all reasonable facilities for examining the nomination paper of all candidates. The Returning Officer shall examine the nomination papers and shall decide the objections which are made to any nomination and may either on such objections or his own motion, after such summary inquiry, if any, as he thinks necessary, reject any nomination paper on any of the grounds mentioned therein. One of the grounds is failure to comply with any of the provisions of Rules 29, 30 or 31, or that the signature of the candidate or the candidate's proposer on the nomination paper is not genuine. A mere clerical or printing error or any defect which is not of a substantial character shall not be a ground for such rejection. The scrutiny shall not be adjourned except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond control. However, where an objection is raised by the Returning Officer or any other person, the candidate may be allowed time to rebut it not later than the next day and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned regarding accepting or rejecting the same. Sub-rule (6) of Rule 33 reads thus:

"(6) The Returning Officer (Panchayat) shall endorse on each nomination paper his decision regarding accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection. The order passed by the Returning Officer (Panchayat) shall be final."

16A. Rule 34 of the Rules relates to withdrawal of candidature. Rule 35 deals with preparation of list of contesting candidates whose nominations have been accepted. Rule 37 requires publication of list of contesting candidates. Rule 43 deals with death of candidates before poll. Rule 44 deals with uncontested elections. If only one candidate whose nomination paper is found valid remains, Returning Officer shall forthwith declare the candidate duly elected to fill the seat and inform the Commission through District Election Officer of the same.

In the present cases, nomination papers of all but one of the candidates have been rejected on the ground that there are unauthorised over-writings in nomination papers. Election Commission took the view that these over-writing were made by one of the Election Officers who tampered with the same. It was on this ground that the Election Commission interfered. It is true that Article 243K(1) of the Constitution and Section 42 of the Act vest in the Commission, superintendence, direction and control of the preparation of electoral rolls for, and the conduct of election and Rule 17(3) of the Rules confers on the Commission power to issue such special or general orders or directions which may not be inconsistent with the provisions of the Act for fair and free elections. Rule 33(6) declares that the order accepting or rejecting the nomination paper passed by the Returning Officer shall be final. As observed in *N.P. Ponnuswami Vs. Returning Officer, Namakkal Constituency and Others*, , the only significance which the rejection of a nomination paper has consists in the fact that it can be used as a ground to call the election in question. As in the case of Article 329(b), so also in the case of Article 243O(b), it can be said that the provision is enacted to prescribe manner in which and the stage in which this ground and other grounds which may be raised in law to call the election in question could be raised. As observed in *N.P. Ponnuswami's* case, by necessary implication, it follows from the language of the provision that these grounds cannot be urged in any other manner or at any other stage and before any other Court. The scheme of Article 243O(b) read in the light of Rule 33(6) is that the decision of the Returning Officer shall be final, subject to review only by the Election Tribunal in a duly filed Election Petition. The order passed by the Returning Officer accepting or rejecting the nomination paper is not susceptible to review at any other stage or by any authority other than Election Tribunal. It is significant to note that the rules do not provide an appeal to the Commission or revision suo motu or otherwise to the Commission against the order of the Returning Officer. These circumstances make it clear that whatever be the amplitude of the power vested in the Commission under Article 243K and Section 42 of the Act, it does not take in the power of upsetting the final decision arrived at by the Returning Officer accepting or rejecting the nomination paper. The Election Commission has no jurisdiction to interfere at that stage in that matter.

It is contended by the learned counsel for the appellants that Rule 43 is not exhaustive of the power of the Election Commission to cancel the election. Rule 43 relates to countermanding of poll due to death of contesting candidate. Poll cannot be countermanded if the death takes place before the commencement of

poll. But if there remains only one contesting candidate, the Returning Officer, shall countermand the poll and report the matter to the Election Commission through District Election Officer. Thereupon the election process shall be commenced anew in all respects. It is clear that death of a candidate which leads to survival of only one candidate must necessarily result in cancellation of election process and holding of a new election. Mere countermanding the poll is something different from countermanding the election. When poll is countermanded only the polling is prevented. Where death of a candidate leads only to one candidate surviving, he cannot be declared elected. Necessarily, it must lead to a fresh election calling for fresh nominations. By analogy, the same result cannot be ensued in the case of rejection of nomination paper leading only to one surviving candidate. The Act or rules do not provide for such result or consequence. It is difficult to agree that Rule 43 is only one instance of the power of the Commission. On the other hand, it is a specific provision to deal with case of death of a candidate in all cases. We fail to see how the power of countermanding the poll leading to fresh election can be exercised in the case of rejection of nomination papers of all candidates except one particularly in view, of Article 243O(f) and Rule 33(6) of the Rules.

18A. Learned counsel for the appellants contended that the Court cannot interfere in the decision of the Election Commission countermanding the election even if it is felt to be a wrong decision. This contention is a result of misapprehension in regard to Article 243O of the Constitution. This article is in two parts. In the first part, there is a bar to call in question in any court the validity of law relating to delimitation of constituencies or the allotment of seats to such constituencies. Second part bars election being called in question except by Election Petition presented to the duly constituted authority. The challenge levelled against the order of the Election Commission in these cases does not call in question the validity of election law or election to the panchayat. In fact what is called in question is the act without jurisdiction of the Commission in interfering with the election process which has commenced already. The relief sought and granted in these cases does not come within the purview of Article 234O of the Constitution and, therefore, the Court is not precluded from granting appropriate relief.

As indicated by Rule 33 of the Rules, candidates, their election agents, or one proposee of each candidate shall have the right to attend the scrutiny of nominations. They have also a right to all reasonable facilities to examine nomination papers of all candidates. They have right to raise objections. When objection is raised against nomination of a candidate, he can be allowed time to rebut it not later than the next day. The decision is to be recorded by endorsement on the nomination paper. In the case of rejection, there shall be brief statement of reasons to be recorded in writing. The decision which is final can be challenged only by way of Election Petition, which has to be disposed of following the procedure prescribed. If a nomination paper is to be rejected, that can be done only after giving an opportunity to the candidate concerned to

support his nomination. If the election itself is to be countermanded on the ground of illegal rejection of nomination paper, naturally those who are affected by the countermanding must be given an opportunity. The Election Commission took the decision without reference to the candidate who would be affected by the decision. Learned single Judge was, therefore, right in holding that the decision of the Election Commission is vitiated on account of violation of principles of natural justice.

The last argument advanced by the learned counsel for the appellants is based on Rule 17(3) of the Rules, according to which the Commission has power to issue special or general orders or directions not inconsistent with the provisions of the Act to ensure free and fair elections. Learned counsel contended that this power would take in the power to countermand elections on account of wrongful rejection of nomination papers. We have already indicated that the scheme of the provisions relevant for the purpose is to treat the decision of the Returning Officer as final subject only to review by the Election Tribunal. The intervention of the Election Commission on account of wrongful rejection or acceptance of nomination papers would throw the entire election machinery out of gear and is against the scheme of the provisions. Learned counsel for the appellants tried to present a horrendous picture of large number of Returning Officers wrongfully rejecting or accepting nomination papers on account of political or other motives. An equally horrendous picture can be presented of the Election Commission unnecessarily interfering and upsetting the entire process of election. We think that either of the views is only an extreme view which cannot be taken cognizance by the Court. Illegal rejection or acceptance of nomination papers, even illegal rejection of nomination papers leading to the only one candidate being left in the field is capable of correction by the Election Tribunal, thereby safeguarding the legality and purity of election Rule 17(3) of the Rules cannot be regarded as empowering the Commission to interfere with the order passed by the Returning Officer accepting or rejecting the nomination papers. Wrongful acceptance or rejection of nomination paper is a ground which could be urged in Election Petition under the M. P. Panchayats (Election petitions, Corrupt Practices and Disqualification for Membership) Rules, 1991.

For the reasons indicated above, we find no ground to interfere and dismiss the appeals but in the circumstances, without costs.