

Rajeev Khan Vs. State of HP

CMP No. 1613 of 2026 in CWP No. 1130 of 2026

Reserved on: 16.1.2026

23.1.2026 Present: Mr Imran Khan, Advocate, for the petitioner.
Mr B.N. Sharma, Additional Advocate General,
for respondents No. 1 to 5/State.

CMP No. 1613 of 2026

The petitioner contested the elections for the Gram Panchayat Baag, Tehsil Ladbhadol, District Mandi, H.P., which were held on 17.1.2021. Respondent No. 6 was also a candidate in the election. He objected to the petitioner's nomination and submitted a copy of the application filed by the petitioner for the regularisation of the encroachment on Government land. The Assistant Returning Officer rejected the objection raised by respondent No. 6. The petitioner secured 365 votes and was declared elected. Respondent No. 6 filed an election petition asserting that the petitioner had encroached upon the Government land comprised in Khasra No. 625/2, measuring 1-13 bigha, situated at Mohal, Parol/19, Tehsil Ladbhadol, District Mandi, H.P. The Authorised Officer-cum-Sub Divisional Officer (Civil), Jogindernagar, allowed the election petition vide order 20.11.2024 and set-aside the petitioner's election. The petitioner filed an appeal before the learned Appellate Authority/Deputy Commissioner, Mandi, HP, which was dismissed on

28.7.2025. The petitioner filed a revision before the Learned Divisional Commissioner, Mandi, which was dismissed on 9.12.2025. Being aggrieved by the orders passed by the authorities, the petitioner has filed the present petition, asserting that the authorities erred in holding that the petitioner is an encroacher on the Government land. No encroachment proceedings were conducted against the petitioner. A certificate issued by the Range Forest Officer regarding the vacation of the encroached land measuring 00-13-00 biswas was ignored. The authorities erred in law by treating the encroachment as a continued disqualification. Respondent No. 6 failed to discharge the burden to prove the encroachment, and the burden of proof was wrongly shifted to the applicant. Hence, the application seeking interim directions.

2. I have heard. Mr Imran Khan, learned counsel for the applicant/petitioner, and Mr B.N. Sharma, learned Additional Advocate General, for respondents No. 1 to 5/State.

3. Mr Imran Khan, learned counsel for the applicant/petitioner, submitted that the learned authorities erred in holding that the petitioner had encroached upon the Government land. Respondent No.6, who had filed the petition, was required to prove the encroachment. The burden to prove was wrongly shifted to the petitioner.

Therefore, he prayed that the present petition be allowed and an interim order be issued in favour of the applicant.

4. Mr B.N. Sharma, learned Additional Advocate General, for respondents No. 1 to 5/State submitted that there is no infirmity in the order passed by the Court. Hence, he prayed that the present petition be dismissed.

5. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

6. The petitioner has filed the present petition seeking the writ of certiorari for quashing the orders passed by the authorities. It was laid down by the Hon'ble Supreme Court in *Nagendra Nath Bora v. Commr. of Hills Division, 1958 SCC OnLine SC 45* that the Court issuing a writ of certiorari acts in exercise of supervisory and not appellate jurisdiction. The Court will not review the findings of fact even if it is erroneous. It was held in *Bharti Airtel Ltd. v. A.S. Raghavendra, (2024) 6 SCC 418*, that there must be a level of infirmity greater than ordinary in the order of the Tribunal to justify the interference.

7. In the present case, the learned Authorised Officer-cum-Sub Divisional Officer and learned Deputy Commissioner have concurrently held that the petitioner had applied for the regularisation of the encroachment of the Government land comprised in Khasra No. 625/2, measuring

1-13-00 bigha. This fact was confirmed by Tatima attached to the application. The Range Forest Officer issued a certificate mentioning that the petitioner had vacated 0-13-00 bigha of land, which means that he was still in possession of 01 bigha of the land. The admission made by a person is the best evidence, and once the petitioner had admitted the encroachment of 1-13-00 bigha of land by filing an application for regularisation, the burden would shift upon him to show that he had vacated the encroached land. Thus, there is, *prima facie*, no infirmity in the finding of fact recorded by learned authorities justifying the issuance of any order at this stage.

8. Reply, on behalf of the non-applicants/respondents, if any, be filed within three weeks and the matter be listed with the main matter.

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List the matter before the appropriate Bench having the roster after vacation.

(Rakesh Kainthla)
Vacation Judge

23rd January, 2026
(Chander)