

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Election Petition No. 5/2024

Purushottam Lal S/o Shri Charansingh
-----Petitioner
Versus
Sanjana W/o Shri Kaptan & Ors.
-----Respondents

For Petitioner(s)	:	Petitioner in person
For Respondent(s)	:	Mr. R. N. Mathur, Sr. Advocate assisted by Mr. Abhay Singh Rathore for respondent No.2 Mr. Ravi Chirania, Mr. S. K. Panwar Mr. R.D. Meena, Mr. Hemant & Mr.Ashok Kumar Meena for respondent No.1

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

21/11/2024

1. An application (I.A. No.4/2024) has been filed by and on behalf of respondent No.6, Returning Officer and District Magistrate, seeking permission to open strong room and carry out the physical verification of the electronic voting machines (EVM) of the Parliamentary Elections Constituency No.09, Bharatpur District as also to release the EVMs and VVPATs for using in future elections.
2. The application has not been opposed by the petitioner.
3. The instant election petition has been filed challenging the election of Member of Parliament for Constituency No.09, Bharatpur. Considering the grounds of challenge, retaining of EVMs and VVPATs in strong room is not required at all.

4. In view of above, the application (I.A. No.4/2024) is allowed and respondent No.6 is permitted to enter into the strong room to verify the EVMs and VVPATs as also to use such machines for future elections. However, it is hereby observed that such permission would not adversely affect the rights of petitioner so also the contesting parties in the election petition. It is also observed that the record of the election of the Constituency No.09, Bharatpur in question be kept intact by the respondent No.6 during pendency of this election petition.

5. Another application (I.A. No.3/2024) has been filed by the respondent No.1 under Order 7 Rule 11(D) r/w Section 151 CPC, seeking rejection of the election petition taking resort to Rule 745-B of the Rajasthan High Court Rules, 1952.

6. It has been *inter alia* stated that since the election petition has been drawn in Hindi Language, whereas Rule 745-B of the Rajasthan High Court Rules, 1952 envisages that the election proceedings in the High Court shall be conducted in English Language, hence, on this ground alone the election petition deserves to be rejected.

7. This Court has decided the similar issue today itself in Election Petition No.1/2023 and while placing reliance on the judgment of Hon'ble Supreme Court in case of **Dr. Vijay Laxmi Sadho Vs. Jagdish:[(2001) 2 SCC 247]**, the objection has been turned down. It has been held and observed that in view of provision of Article 348 (2) of the Constitution of India, no supremacy can be accorded to Rule 745-B of the Rajasthan High Court Rules, 1952, which has been formulated by the Rajasthan

High Court in exercise of powers under Article 225 of the Constitution of India. The order dated 21.11.2024 passed in Election Petition No.1/2023 titled Purushottam Lal Vs. Ritu Banawat and Ors. by this Court deciding the identical issue, shall apply to this election petition also and in that view, the application (I.A. No.3/2024) is hereby dismissed.

8. As far as objection on behalf of respondent No.2 in respect of not receiving the document enclosed with the election petition is concerned, the report of the Office dated 19.11.2024 pursuant to the previous order dated 13.11.2024 is available on record. As per the Office report, the entire documents enclosed with the election petition were also sent to all the respondents alongwith the notices. In view of such report, counsel for the respondent No.2 does not press his objection. Accordingly, the objection is hereby dispensed with.

9. Let this election petition be listed on 05.12.2024 in supplementary list.

(SUDESH BANSAL),J