



2026:RJ-JP:23284

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Election Petition No. 1/2023

Purushottam Lal S/o Shri Charansingh

----Petitioner

Versus

Ritu Banawat W/o Shri Rishi Bansal & ors.

----Respondents

For Petitioner(s)	:	Petitioner in person
For Respondent(s)	:	Mr. Bipin Gupta
		Mr. Abhishek Singh for respondent No.1
		Mr. Raj Kumar Goyal for respondent No.3
		Mr. Ravi Chirania,
		Mr. S. K. Panwar

HON'BLE MR. JUSTICE SUDESH BANSAL
Order

21/11/2024

REPORTABLE

1. An application (I.A. No.10/2024) has been filed by respondent No.3 under Order 7 Rule 11 r/w Section 151 CPC, seeking rejection of the election petition against the respondent No.3 alleging *inter alia* that in clause 7 of the election petition, the grounds of non-disclosure of complete particulars about respondent No.3 as also non-disclosure of Bank Account details of his wife and daughter etc., do not constitute the term "Undue influence" much less corrupt practice as contemplated under Section 123 of the Representation of the People Act, 1951 (for short "the RP Act, 1951"), hence, in absence of appropriate grounds to cancel the nomination form of respondent No.3, the election petition cannot be maintained, as such same is liable to be rejected at threshold under Section 83 of the RP Act, 1951 at least qua respondent No.3.



2. Learned counsel appearing for respondent No.3, while repeating the averments of the application in his arguments, has relied upon a judgment of the Hon'ble Supreme Court in case of **Kanimozhi Karunanidhi Vs. Santhana Kumar and Ors: AIR 2023 SC 2366.**

3. The application has been replied and resisted by the petitioner stating *inter alia* that the application is frivolous and misconceived and has been filed just to delay the proceedings of election petition. It has been submitted by the petitioner that the grounds of concealment of material particulars and other property details of wife and children of respondent No.3, do not constitute and fall within the purview of Section 123 (2) of the RP Act, 1951, as has been held and observed by the Hon'ble Supreme Court and other high courts. Reference of the judgments of Hon'ble Supreme Court in case of **Kishan Shankar Kathore Vs. Arun Dattatray Sawant and Ors.:[(2014) 14 SCC 162]**, **Lok Prahari Vs. Union of India and Ors.:[(2018) 4 SCC 699]** and **Sri Mairembam Prithviraj @ Prithviraj Singh Vs. Shri Pukhrem Sharatchandra Singh:[(2017) 2 SCC 467]** has been given, hence the application is liable to be dismissed.

4. Having heard learned counsel for the respondent No.3 and the petitioner in person and from perusal of the pleadings of election petition particularly of para No.7 of the election petition as also having gone through the judgments referred by the petitioner, this Court finds that the grounds alleged by the petitioner in para No.7 need to be examined on merits after recording evidence of parties and thereafter only the issue in respect of cancellation of nomination of respondent No.3 on such



grounds can be adjudicated. At this stage, it cannot be held that the allegations made in para 7 of the election petition do not attract any of the ground under Section 123 of RP Act, so as to reject the nomination form of respondent No.3. In addition, it has been noticed that the reply to the election petition has already been filed by the respondent No.3 and reply by the other respondents is yet to be filed, if they desire and at this stage, the election petition cannot be rejected even qua respondent No.3.

5. As far as the judgment of Hon'ble Supreme Court in case of **Kanimozhi Karunanidhi** (*supra*) relied upon by counsel for the respondent No.3 is concerned, on facts of case at hand, the analogy is not applicable in the present case because in that case, the objection was raised by returned candidate, seeking to reject the election petition which was filed fundamentally on the ground of non-disclosure of his educational qualification in proper manner as also non-disclosure of repayment of loan whereas in the present case, the factual allegation of concealment due to which the nomination form of respondent No.3, who is also a defeated candidate, has been prayed to be rejected stand on different footing and prima facie attracts the ground of Section 123 (2) of RP Act.

6. This view finds support by the judgments relied upon by the petitioner in case of **Kishan Shankar Kathore** (*supra*), the Hon'ble Supreme Court held that it would depend upon facts and circumstances of each case as to whether any non-disclosure would amount to material lapse or not. The Hon'ble Supreme Court observed that the non-disclosure of material information as to assets of candidate and assets of spouse, amounts to material



and substantial lapse and on account of such non-disclosure, the order of setting aside of election of the appellant by the High Court was affirmed by the Hon'ble Supreme Court.

7. In case of **Lok Prahari** (*supra*), the Hon'ble Supreme Court while dealing with the relevant provision of the RP Act, 1951 and the Conduct of Election Rules, 1961 declared that the non-disclosure of assets and sources of income of his spouse and dependents by a candidate would amount to undue influence and thereby, corruption rendering such election null and void under Section 100 (1) (b) of RP Act, 1951 stands established.

8. In view of above, the application (I.A.No.10/2024) is hereby dismissed.

9. Another application (I.A. No.11/2024) has been filed by the respondent No.1, winner candidate taking resort of the Rule 745-B of Rajasthan High Court Rules, 1952, raising an objection that election petition has been drawn in Hindi Language and not in English, which is not in conformity to rule, hence, petitioner be directed to comply with the Rule 745-B of Rajasthan High Court Rules, 1952.

10. While arguing the application, counsel appearing on behalf of respondent No.1 has contended that Rule 745-B of Rajasthan High Court Rules, 1952 requires that "all proceedings in the High Court in respect of Election Petition shall be conducted in English Language". Learned counsel submits that the instant election petition has been drawn by the petitioner in Hindi Language and no translation in English has been placed on record, therefore, the election petition may not be treated to be filed in conformity to



Rule 745-B of Rajasthan High Court Rules, 1952, hence the instant application has been filed.

11. In counter, the petitioner who is appearing in person has contended that Article 348 (2) of the Constitution of India envisage an exception to Section 348 (1) (a) that the Governor of State may, with previous consent of the President, authorize the use of Hindi Language, or any other language used for any official purposes of the State, in the proceedings in the High Court and in pursuance thereof, in the State of Rajasthan, the Governor has issued a notification dated 14.02.1950, allowing the use of Hindi Language in the proceedings in the High Court of Rajasthan. Hence, his submission is that Rule 745-B of Rajasthan High Court Rules, 1952 cannot be allowed to prevail over the provision of constitution envisage under Section 348 (2) of the Constitution of India, more particularly where the Rules of 1952 by the High Court have been formulated in exercise of Article 225 of the Constitution of India itself. Reply to the application to this effect has also been filed.

12. Having adverted to the issue in question, this Court finds that it is undisputed that the present election petition has been drawn in Hindi Language and no copy of the English translation has been enclosed therewith. It is also true that the Rule 745-B of Rajasthan High Court Rules, 1952 provides that all the proceedings in the High Court in respect of the election petition shall be conducted in English but this rule neither provide any penal clause nor suggest any consequence for non compliance of Rule. Rules framed by the High Court relating to trial of election petitions in the High Court, are only procedural in nature and do



not constitute "substantive law", hence need not to be complied with mandatorily. In the opinion of this Court, Rule 745-B of Rajasthan High Court Rules, 1952 has to be read alongwith the other statutory provisions, to appreciate the consequence of non-compliance of this Rule where no provision of RP Act, 1951 provides to draft the election petition only in English Language, the provision of Constitution Article 348 (2) permits use of Hindi Language in the proceedings in the High Court and in pursuance thereof, the Governor of Rajasthan has issued notification dated 14.02.1950 which has already been held enforceable and is presently in force.

13. The similar issue came up for consideration before the Hon'ble Supreme Court in case of **Dr. Vijay Laxmi Sadho Vs. Jagdish:[(2001) 2 SCC 247]**. In that case, the election petition and affidavit attached thereto was drawn in Hindi Language and objection for rejection of the election petition on account of not filing in English Language was raised, placing reliance on Rule 2(b) of the Madhya Pradesh High Court Rules. The objection was sustained by learned Single Judge and the election petition was rejected on this count alone. However, when the matter traveled to the Hon'ble Supreme Court, it was clearly observed that the Rule 2 (b) of the Madhya Pradesh High Court Rules has been formulated by the High Court in exercise of powers by virtue of Article 225 of the Constitution of India which is only a provision to suggest procedure and Rule 2 (b) of the Madhya Pradesh High Court Rules cannot be given primacy over the Article 348 (2) of the Constitution of India. Accordingly, the Hon'ble Supreme Court set aside the order of learned Single Judge and restored the



election petition. For ready reference Para 27 of the Judgment is being reproduced hereunder:-

"The interpretation placed on rule 2 of the High Court Rules, giving it almost primacy over Article 348(2) of the Constitution, in Jai Bhansingh's case to our mind is fallacious. The learned single Judge appears to have lost sight of the position that Rules framed by the High Court in exercise of powers under Article 225 of the Constitution of India are only rules of procedure and do not constitute substantive law and those rules cannot affect the import of constitutional provisions contained in Article 348(2) of the Constitution. The high pedestal on which Rule 2(b) of the High Court Rules has been placed in Jai Bhansingh's case, not only violates clear constitutional provisions but also introduces a clause in Section 86 of the Act which does not exist. The entire approach to consideration of the effect of the notification issued under Article 348(2) appears to be erroneous. That apart, the defect of not filing an election petition in accordance with Rule 2(b) of the Rules is not one of the defects which falls either under Sections 81, 82 or 117 of the Act so as to attract the rigour of Section 86 of the Act as rightly held in Devilal's case (supra). Whether any other consequences may follow on account of the alleged defects would depend upon other factors to be determined at the trial of the election petition but to hold that Section 86(1) of the Act would be attracted for non-compliance with Rule 2(b) of the High Court Rules is not correct. The learned Single Judge of the High Court was right in rejecting application, I.A. No. 5957 of 1999 and holding that an election petition filed by the respondent could not be dismissed under Section 86(1) of the Act for alleged non-compliance with Rule 2(b) of the High Court Rules relating to presentation of election petitions."

(emphasis supplied)

14. It is to be noted that as far as drafting/ writing the election petitions in English Language, for filing before the High Court is concerned, Rule 2(b) of the Madhya Pradesh High Court Rules and Rule 745-B of the Rajasthan High Court Rules, 1952 are *pari materia*. Thus, the analogy expounded by the Hon'ble Supreme Court in case of **Dr. Vijay Laxmi Sadho** (*supra*) is squarely



applicable in respect of Rule 745-B of the Rajasthan High Court Rules, 1952 as well.

15. For the aforesaid reason, this Court is of considered opinion that the petitioner has option to file election petition in Hindi Language as well and on this count, merely for not drafting the election petition in English Language or not accompanying the election petition drafted in Hindi Language with the English version, the election petition cannot be held defective nor any directions are required to be issued to petitioner to furnish an English version of the election petition drafted in Hindi Language.

16. Accordingly, the application (I.A. No.11/2024) filed by respondent No.1 is hereby dismissed.

17. Office shall place the copy of this order before the Registrar (Judicial) of Rajasthan High Court at principal seat, Jodhpur and Bench Jaipur for information and necessary action.

18. Let this election petition be listed on 28.11.2024 in supplementary list.

(SUDESH BANSAL),J