



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, Aged About 42 Years,
R/o- Sirsoda, Roopbaas, Tehsil And Post Office- Roopbaas,
District Bharatpur (Rajasthan) Pin 321404, Mobile No.
8058252616, Email Purshottam.3658@gmail.com

----Petitioner

Versus

1. Ritu Banawat W/o Shri Rishi Bansal, Aged About 39 Years,
R/o - Makan No. 159, Gandhi Sewa Sadan Lal Bagh,
Nagarpalika -Bayana, Tehsil -Bayana, District Bharatpur
(Rajasthan,) Mobile No. 9414261862
2. Bachchusingh S/o Shri Kanchansingh, Aged About 44
Years, R/o- Basai, Post- Banshi Paharpur, Tehsil
Roopbaas, District Bharatpur (Rajasthan). Mobile No.
7891012126, 9810211751
3. Amarsingh S/o Shri Sukhram, Aged About 54 Years, R/o-
Basai , Post -Banshi Paharpur, Tehsil Roopbaas, District-
Bharatpur (Rajasthan) Mobile No. 9828039468,
9358321341
4. Mukesh S/o Shri Bhagwansingh, Aged About 46 Years,
R/o - Rudawal, District-Bharatpur (Rajasthan) Mobile No.
9587203632
5. Madanmohan S/o Shri Vedariya, R/o-Gram And Post-
Khedathakur, Tehsil Roopbaas, District-Bharatpur
(Rajasthan), Mobile No. 7073648625
6. Munniram S/o Shri Bhabuti, Aged About 58 Years, R/o
Singhrawali, Post-Kot, Tehsil Bayana, District-Bharatpur
(Rajasthan), Mobile No 9694883495
7. Neetu Sejwal D/o Shri Premsingh, R/o-Lal Darwaja,
Purani Sabji Mandi Bayana, Tehsil- Bayana, District-
Bharatpur (Rajasthan) Mobile No. 7014941326
8. Vijaysingh S/o Shri Mangal, Aged About 45 Years, R/o-
Jasora, Post- Kotthana, Tehsil Bayana, District Bharatpur
(Rajasthan , Mobile No. 9461747066)
9. Ajaysingh S/o Shri Kanchansingh, Aged About 25 Years,
R/o - Basai, Post- Banshi Paharpur, Tehsil-Roopbaas,
District Bharatpur (Rajasthan), 7610012221, 7891012126
10. Sudesh Kumari W/o Shri Nawalsingh, Aged About 35
Years, R/o - Nagla Baretha, Post-Bandh Baretha, Tehsil-
Bayana, District -Bharatpur (Rajasthan), Mobile No.
7073515372
11. Nirwachan Adhikari And Upkhand Magistrate, Rajasthan
Vidhansabha Nirwachan 2023, Vidhansabha Bayana
(076), District- Bharatpur (Rajasthan)- 321401

----Respondents



For Petitioner(s) : Petitioner in person
For Respondent(s) : Mr. G.S. Gill, A.A.G assisted by
Mr. S.P. Singh Astt. G.C.
Mr. Raj Kumar Goyal
Mr. Deen Dayal Sharma

HON'BLE MR. JUSTICE SUDESH BANSAL
Order

21/09/2024

1. Matter has been heard on Miscellaneous Applications I.A. No.2/2024, 3/2024, 4/2024, 7/2024, 8/2024 and 9/2024.
2. Petitioner has pointed out that respondent No.1, who is an elected Member of Legislative Assembly for Constituency Bayana, District Bharatpur, is evading service of notices issued by the High Court in the instant election petition. He submits that the address of respondent No.1, which is indicated in the election petition and on which notices were issued pursuant to order of this Court dated 22.12.2023 is correct, which is home and official address of respondent No.1, yet she knowingly did not receive the notices having connivance with the Process Server and the Postman.
3. Petitioner pointed out that this Court vide order dated 22.12.2023 issued notices to all respondents by both modes through Process Server and registered post and though, the notices of other respondents have been served but the notices of respondent No.1 have returned with a remark that she did not found or "door locked".

The attention of this Court has been drawn to the reports of Process Server made on the notices of respondent No.1 dated 12.01.2024, 17.01.2024 and 19.01.2024 wherein Process Server noted that respondent No.1 is not present at home at the relevant point of time and though he talked to her on telephone but she



declined to receive notices due to being not present at home. It is also mentioned in the report that one of his office Assistant met on the spot, but he declined to disclose his identity as also to receive notices. Petitioner submits that the Process Server in such eventuality could have pasted the notice, following the provision of Order V Rule 17 CPC, but he returned the notices with report of unserved.

4. Petitioner submits that registered notices of respondent No.1 have also been returned with a remark "door locked" by the Postman, since as per report on the returned envelope, it is mentioned that Postman visited at her given address on 08.01.2024, 09.01.2024, 10.01.2024, 11.01.2024 and 12.01.2024, but the respondent No.1 was not found, hence, the registered notice was also returned.

3. In addition to above, petitioner has pointed out that the notices of this Election Petition were also sent to respondent No.1 on her WhatsApp No. 9414261862 as also on her official E-mail address i.e. ritubanawat@gmail.com, which have been delivered and the documentary proof to this effect have been placed on record. Petitioner has placed on record the letter-head of respondent No.1, on which, she wrote a letter dated 09.03.2024 to the Deputy Chief Minister. The address of respondent No.1, her WhatsApp number as also E-mail address find verification from her Letterhead, which are correct. He submits that respondent No.1 is deliberately keeping away and avoiding the service of notices though she has received information by various means about the instant Election Petition.



4. Petitioner has prayed to draw a presumption of service of notice on respondent No.1 in the aforesaid facts and situation and has also drawn attention of this Court to the judgment of Hon'ble Supreme Court delivered in case of **C.C. Alavi Haji Vs. Palapetty Muhammed & Anr. [AIR 2007 SC (Supp) 1705]**, wherein in Para No.14, in respect of notices sent through registered post, a presumption of service was allowed to be drawn in view of Section 27 of the General Clauses Act, 1897. For ready reference, Para No.14 is being extracted as hereunder:

“Section 27 gives rise to a presumption that service of notice has been effected when it is sent to the correct address by registered post. In view of the said presumption, when stating that a notice has been sent by registered post to the address of the drawer, it is unnecessary to further aver in the complaint that in spite of the return of the notice unserved, it is deemed to have been served or that the addressee is deemed to have knowledge of the notice. Unless and until the contrary is proved by the addressee, service of notice is deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of business. This Court has already held that when a notice is sent by registered post and is returned with a postal endorsement refused or not available in the house or house locked or shop closed or addressee not in station, due service has to be presumed. [Vide Jagdish Singh Vs. Natthu Singh; State of M.P. Vs. Hiralal & Ors. and V.Raja Kumari Vs. P.Subbarama Naidu & Anr.] It is, therefore, manifest that in view of the presumption available under Section 27 of the Act, it is not necessary to aver in the complaint under Section 138 of the Act that service of notice was evaded by the accused or that the accused had a role to play in the return of the notice unserved.”

5. Having gone through the Report of Process Server dated 12.01.2024, 17.01.2024 and 19.01.2024 on the notice of respondent No.1 as also the remark of Postman “door locked” on



the registered notice and in view of other material, placed on record by the petitioner including sending information by the petitioner to the respondent No.1 on her WhatsApp and E-mail, this Court finds that respondent No.1 certainly has got information about filing of the present Election Petition. In addition, as per the proposition of law, enunciated by the Hon'ble Supreme Court in case of **C.C. Alavi Haji** (supra), on the basis of Report of Postman, a presumption of service may also be drawn. It is noteworthy that the address of respondent No.1 is correct, which stands verified by the Letter-head dated 09.03.2024, available on record.

6. This Court further finds that the court notices sent to respondent No.1 through Process Server, could have been pasted/affixed at her home by the Process Server, when telephonically and through the official Agent, respondent No.1 did not accept the notices, but the Process Server has not affixed the notices in accordance with the provision of Order V Rule 17 CPC. Hence, an enquiry against the Process Server is deemed necessary for non-performance of his duties diligently, hence, the District Judge, Bharatpur, is directed to initiate an enquiry against the Process Server and conclude the same within a period of 10 days.

7. As an abundant precaution, before drawing a presumption of service of notice on respondent No.1, this Court deems it just and proper to issue fresh notice to the respondent No.1 at her home address through Process Server as also at the State Legislative Assembly, Jaipur through the Secretary to the Legislative Assembly, since at present, the respondent No.1 is an elected Member of Legislative Assembly.



Petitioner undertakes to file fresh notices in two sets as aforesaid, within three days, which may be given 'dasti' to ensure service. It is hereby observed that in case the notice at home is not received, same is allowed to be affixed/ pasted by the Process Server in presence of two independent witnesses at the house of respondent No.1. Notice sent through Secretary to Legislative Assembly, may be served upon the Secretary, who shall inform to respondent No.1.

8. As far as respondents No.2, 3, 7, 9 and 11 are concerned, respective counsels have put in appearance on their behalf and respondents are granted last opportunity to file reply before the next date of hearing.

9. As far as respondents No.4, 5, 6, 8 and 10 are concerned, they have been served through registered post, however, have not put in appearance, so appropriate order would be passed against them on the next date of hearing.

10. It is hereby observed that appropriate order in respect of closure of the reply of respondents/ drawing ex parte proceedings, shall be passed on the next date of hearing, as per situation.

11. As far as prayer of petitioner to summon the original record related to the impugned Election is concerned, it has been apprised by the Additional Advocate General that the original record remains in the custody of Election Department which is not party to this Election Petition. In such view, petitioner does not press his prayer to summon the original record at this stage and submits that he has already filed the certified copies of the relevant record, therefore, if any objection at the time of evidence would arise, then he may be granted liberty to summon the



original record. In such view, the prayer to summon the original record is not pressed at this stage.

12. In view of above order, all applications stand disposed of.

13. List the matter on 10th October, 2024 to see the Report on the notices of respondent No.1 as also the inquiry report against the concerned Process Server.

(SUDESH BANSAL),J

RONAK JAIMAN/232-S