

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL No.7341 OF 2024
(Arising out of SLP(C)No.10571 of 2024)

MOHD. IMRAN SHAREEF

... APPELLANT

Versus

MOHD. MUNEERUDDIN & ORS.

... RESPONDENTS

WITH

CIVIL APPEAL No.7343 OF 2024
(Arising out of SLP(C)No.12210 of 2024)

CIVIL APPEAL No.7342 OF 2024
(Arising out of SLP(C)No.12121 of 2024)

SLP(C)No.14283 of 2024

O R D E R

C.A.No.7341/2024 @ SLP(C)No.10571/2024

1. Leave granted.
2. The appellant is aggrieved by the order dated 09.01.2024, passed by the High Court for the State of Telangana at Hyderabad, whereby an order dated 16.08.2023, of the Principal District Judge, Mahabubnagar, rendered in an Election Petition under the Telangana Municipalities Act, 2019 (in short, '2019 Act'), has been affirmed.
3. The appellant filed an Election Petition (No.1 of 2020), under Section 233 of the 2019 Act, to declare the election of respondent No.1 as Ward Member (Municipal Councilor) from Ward No.33 of Mahabubnagar Municipality, as void and set aside the same with a

further direction to declare him as the returned candidate.

4. The first respondent contested the Election Petition through a counter-affidavit in which he raised an objection regarding non-compliance of the procedure prescribed for filing an Election Petition. He, thereafter, filed an application under Order VII Rule 11 CPC read with Rule 8(2) of the Telangana Municipalities (Election Petitions) Rules, 2020 (for short, '2020 Rules') to get the Election Petition filed by the appellant rejected and dismissed. The objection taken by the first respondent was that the appellant failed to comply with the mandatory provision regarding the deposit of amount to the tune of Rs.5,000/- towards Security Deposit at the time of presenting the Election Petition before the Tribunal. It was stated that non-deposit of the said amount was in violation of Rule 8(2) of the 2020 Rules.

5. The facts are not broadly disputed. The Election Petition was filed by the appellant on 20.02.2020. The security amount of Rs.5,000/- was stated to be deposited on 24.02.2020.

6. The case of the appellant, on the other hand, is that he deposited the Security Amount in the District Court Account on 18.02.2020, i.e., even before the filing of the Election Petition and the counterfoil thereof was filed in the Court along with the Election Petition. The office, however, raised an objection with regard to the mode of payment of Security Deposit and advised the appellant to again deposit the same through Lodgment Schedule. He, therefore, followed the desired procedure and re-deposited the Security Amount through the Lodgment Schedule on 24.02.2020, i.e., four days after presenting the Election Petition.

7. The Principal District Judge-cum-Election Tribunal (for short, 'the Tribunal'), however, was not satisfied with the explanation rendered by the appellant as according to the Tribunal, the 2020 Rules mandated to deposit the Security Amount simultaneously while presenting the Election Petition. Consequently, the application under Order VII Rule 11 CPC was allowed and the Election Petition was dismissed, it being not maintainable. That order has been upheld by the High Court, giving rise to this appeal.

8. Notice in the petition was issued on 30.04.2024 and as per the Office Report, service is complete on all the respondents. However, the returned candidate, namely, respondent No.1 has not entered appearance despite service. Learned counsel for respondent Nos.8 and 9, of course, has rendered assistance to us.

9. Rule 8 of the 2020 Rules re: Deposit of Security reads as follows:

"8. Deposit of Security: (1) At the time of presentation of the petition, the petitioner shall deposit with the Election Tribunal, as security for the cost of the same, -

(i) A sum of ten thousand rupees in the case of election of Chair person or Vice Chairperson or Mayor or Deputy Mayor; and

(ii) A sum of five thousand rupees in the case of ward member.

Explanation: Where the election of more than one returned candidate is called in question, a separate deposit shall be made in respect of each such returned candidate.

(2) If the provisions of sub-rule (1) are not complied with, the Election Tribunal shall dismiss the petition.

(3) Upon compliance with the provisions of sub-rule (1), the Election Tribunal shall proceed to inquire into the petition."

10. It is true that sub-rule (1) commands that at the time of presentation of the petition, the petitioner shall deposit with the Election Tribunal, a sum of five thousand rupees as security in the case of a Ward Member. Sub-rule (2) further provides that in the event of non-compliance of sub-rule (1), the Election Petition shall be liable to be dismissed.

11. However, sub-rule (1) has to be construed in a manner that achieves its purpose, namely, to prevent institution of vexatious or frivolous Election Petitions out of vengeance or otherwise, Sub-rule (2) further ensures that there is no willful or deliberate omission on the part of a petitioner in depositing the said security amount. Where an election petitioner, in a bona fide manner, has taken all necessary steps with an intent to comply with the Rule, and wherein the non-deposit of the security amount "at the time of presentation of the petition" is not due to the fault of such petitioner, we are of the considered opinion that the Election Petition cannot be dismissed on account of a fictitious ground not attributable to the election petitioner.

12. We now advert to the facts of this case. The Election Petition was admittedly filed on 20.02.2020. It is also a matter of record that even before formally presenting the Election Petition, the petitioner had deposited the security amount of Rs.5,000/- in the District Court Account and the counterfoil thereof was duly appended with the Election Petition. The

petitioner's intent to comply with sub-rule (1)(ii) of Rule 8 is, thus, well established. There is no direct or indirect attempt by him to defy Rule 8(1) of the 2020 Rules while pursuing his Election Petition. It was only the office of the Election Tribunal who raised an objection regarding the mode of deposit of the security amount. The appellant followed the procedure as suggested by the Registry of the Election Tribunal and again deposited the security amount on 24.02.2020. We fail to understand as to how the appellant can be accused of non-compliance with Rule 8(1)(ii) of the 2020 Rules.

13. Pertinently, even on 24.02.2020, when the appellant re-deposited the security amount by following the advised procedure, the limitation to present the Election Petition had not expired. It seems to us that in light of this reason as well, the Election Petition presented by the appellant ought not to have been dismissed at the threshold, being not maintainable.

14. The Principal District Judge-cum-Election Tribunal and the High Court, thus, have completely misconstrued the import and intent of Rule 8(1) of the 2020 Rules which is essentially meant to discourage the filing of pointless or pestiferous Election Petitions.

15. Though, we clarify that we are not going into the merits of the Election Petition, but this is a case where the first respondent was declared elected by a margin of four votes. It cannot, therefore, be said that the Election Petition filed by the appellant was senseless, casual or without any *prima facie* substance. The Tribunal, thus, ought to have decided the Election

Petition on merits instead of taking a circuitous route through hyper-technical objection.

16. For the reasons aforesaid, the appeal is allowed; the impugned order dated 09.01.2024, passed by the High Court as well as the order dated 16.08.2023, passed by the Tribunal in I.A.No.1154 of 2022 in E.O.P. No.1 of 2020, are hereby set aside. The Election Petition filed by the appellant is restored to its original number and file. The Election Tribunal is directed to take up the Election Petition at least once in a week and dispose of the same in accordance with law within four months.

C.A. No.7343 of 2024 @ SLP(C)No.12210 of 2024 and C.A.No.7342 of 2024 @ SLP(C)No.12121 of 2024

1. As per the Office Report dated 10.07.2024, service of notice is complete in respect of respondent Nos.2 & 5 in C.A.No.7343/2024 @ SLP(C)No.12210/2024 but no one has entered appearance on their behalf so far.

2. As per the Office Report, service of notice is complete in respect of respondent Nos.1 to 7 & 10 in C.A.No.7342/2024 @ SLP(C)No.12121/2024 but no one has entered appearance on their behalf so far.

3. Leave granted.

4. For the reasons stated in C.A.No.7341/2024 @ SLP(C)No.10571/2024, the appeals are allowed in part; the impugned orders dated 09.01.2024 and 16.08.2023 are set aside and the Election Tribunal is directed to decide the objection against maintainability afresh after hearing the parties. It is directed that an appropriate order shall be passed within one month.

SLP(C)No.14283/2024

1. Notice of the petition was issued on 08.07.2024.
2. Service of notice and affidavit of dasti service is still awaited.
3. List on 14.08.2024.

.....J.
(SURYA KANT)

.....J.
(UJJAL BHUYAN)

**NEW DELHI;
JULY 11, 2024.**

ITEM NO.41+48

COURT NO.4

SECTION XII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).10571/2024

(Arising out of impugned final judgment and order dated 09-01-2024 in CMA No.475/2023 passed by the High Court for the State of Telangana at Hyderabad)

MOHD. IMRAN SHAREEF

Petitioner(s)

VERSUS

MOHD. MUNEERUDDIN & ORS.

Respondent(s)

(FOR ADMISSION)

WITH

SLP(C) No.12210/2024 (XII-A)SLP(C) No.12121/2024 (XII-A)SLP(C)No.14283/2024

Date : 11-07-2024 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) Mr. Vikas Gupta, AOR
Ms. Swati Jindal, Adv.
Mr. Akshya Kumar Panda, Adv.
Mr. Kumar Gaurav, Adv.
Mr. Madan Mohan Pradhan, Adv.

Mr. Siddhartha Iyer, Adv.
Mr. Utkarsh Srivastava, AOR

For Respondent(s) Mr. Balaji Srinivasan, AOR
Mr. Shreyas Ranjan, Adv.

Ms. Devina Sehgal, AOR
Mr. S.Uday Bhanu, Adv.

UPON hearing the counsel the Court made the following
O R D E R

C.A.No.7341/2024 @ SLP(C)No.10571/2024

Leave granted.

The appeal is allowed in terms of the signed order.

C.A. No.7343 of 2024 @ SLP(C)No.12210 of 2024 and C.A.No.7342 of 2024 @ SLP(C)No.12121 of 2024

1. As per the Office Report dated 10.07.2024, service of notice is complete in respect of respondent Nos.2 & 5 in C.A.No.7343/2024 @ SLP(C)No.12210/2024 but no one has entered appearance on their behalf so far.
2. As per the Office Report, service of notice is complete in respect of respondent Nos.1 to 7 & 10 in C.A.No.7342/2024 @ SLP(C)No.12121/2024 but no one has entered appearance on their behalf so far.
3. Leave granted.
4. For the reasons stated in C.A.No.7341/2024 @ SLP(C)No.10571/2024, the appeals are allowed in part; the impugned orders dated 09.01.2024 and 16.08.2023 are set aside and the Election Tribunal is directed to decide the objection against maintainability afresh after hearing the parties. It is directed that an appropriate order shall be passed within one month.

SLP(C)No.14283/2024

1. Notice of the petition was issued on 08.07.2024.
2. Service of notice and affidavit of dasti service is still awaited.
3. List on 14.08.2024.

(SATISH KUMAR YADAV)
ADDITIONAL REGISTRAR

(PREETHI T.C.)
ASSISTANT REGISTRAR

(Signed order is placed on the file)