

ĩ.

C.A.No. 785 OF 2000

.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp

L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R

L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R

ITEM No.101

COURT No. 2

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 785 of 2000.@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC

Bal Mukund Dewangan

Appellant

VERSUS

Pratima Chandrakar & Ors.

Respondents

Date : 16/08/2001 This appeal was called on for hearing today

CORAM :

HON'BLE MR. JUSTICE S.P. BHARUCHA
HON'BLE MR. JUSTICE Y.K. SABHARWAL
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Appellant (s) Mr. Raju Ramachandran, Sr. Adv.
Mr. P.N. Puri, Adv.

For Respondent(s) Mr. Vivek Tankha, Sr. Adv.
Mr. Ashok Kumar Gupta, Adv.
Mr. Farrukh Rashid, Adv.
Mr. Mukesh Kumar, Adv.

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

.....L.....I..T.....T.....T.....T.....T.....T.....T.....T.....J
The civil appeal is dismissed.

No order as to costs.

(T.I. Rajput)
Court Master

(Shelly Sengupta)
Court Master

(Signed order is placed on the file)

.PA
.PL55

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Bal Mukund Dewangan

...Appellant (s)

Versus~

Pratima Chandrakar & Ors.

....Respondent (s)

O R D E R@@
CCCCCCCCCCCC

....L.....I.....T.....T.....T.....T.....T.....T.....T.....J

.SP2

This is an appeal in an election petition. The appellant was the election petitioner. He lost the election to the Assembly Constituency No.166, Khertha, District Durg, Madhya Pradesh, to the first respondent by a margin of 158 votes.

Before the High Court, it was contended on behalf of the appellant that the whole election should be set aside on the ground of an alleged violation by reason of the non-adjourment of the poll in contravention of Section 57 of the Representation of People Act, 1951. The appellant and the respondent led evidence before the High Court and the following was established: At the polling station, Bijabhata, no voting took place between 11.00 a.m. and 1.35 p.m. This was for the reason that the presiding officer, one Mandavi,
...2/-

- 2 -

had permitted the local panchayat secretary, Virendra Sahu, to sit in the polling booth. Sahu had distributed ballot papers to voters so folded that the votes were likely to be rendered invalid. Mandavi had been replaced as a presiding officer at about 1.30 p.m. and thereafter polling had recommenced. In the cross-examination, one of the witnesses on behalf of the appellant, it had been revealed that Sahu had left the polling station at about 10.00 a.m.

The High Court observed, "If Virendra Sahu whose presence and participation had been objected to had already left the Polling station at 10 A.M. there was no justification to adjourn the poll and direct repoll". The High Court, therefore, found that Section 57 was not attracted and the election petition was dismissed.

Section 57 provides for the adjourment of polls in emergencies. It says, so far as is relevant, that "if at an election the proceedings at any polling station.....are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station.....on account of any natural calamity, or any other sufficient cause the presiding officer.....shall announce an adjourment of the poll.....". The argument is that, in the present case, the poll should have been adjourned

...3/-

because the proceedings at the concerned polling station had been interrupted or obstructed on account of sufficient cause.

We are inclined to agree with the High Court that once Sahu had left the polling station, which he did at 10.00 a.m., the interruption or obstruction of the poll thereafter, between 11.00 a.m. and 1.35 p.m., cannot be said to be on account of sufficient cause.

The civil appeal is dismissed.

No order as to costs.

.SP1

.....J.
(S.P. Bharucha)@@
AAAAAAAAAAAAAAAA

.....J.
(Y.K. Sabharwal)@@
AAAAAAAAAAAAAAAA

.....J.
(Brijesh Kumar)@@
AAAAAAAAAAAAAAAA

New Delhi,
August 16, 2001.