

Non-Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.8258 OF 2018
(Arising out of SLP (Civil) No.32593 of 2016)

LALLI PATEL

Appellant(s)

Versus

STATE OF MADHYA PRADESH & OTHERS

Respondent(s)

J U D G M E N T

KURIAN, J.

1. Leave granted.
2. Whether deposit of security along with the presentation of an election petition is to be made by way of payment before the Specified Officer or whether it is sufficient to deposit the amount in the name of the Specified Officer in the Bank, is the question arising for consideration in this case.
3. The appellant filed an election petition under Section 122 of the Madhya Pradesh Panchayat Raj Evam Gram Swaraj Adhiniyam, 1993 before the Specified Officer/Presiding Officer, Collector, Rewa.

4. The contesting respondent filed an application under Rule 11 of the Madhya Pradesh Panchayat (Election Petition, Corrupt Practices and Disqualification for Members) Rules, 1995 stating that the election petition was not maintainable since the appellant has not made the security deposit of Rs.500/- as prescribed under Rule 7 of the 1995 Rules.

5. Rule 7 of the 1995 Rules reads as follows:

“Rule 7. Deposit of Security: At the time of presentation of an election petition, the petitioner shall deposit with the specified officer a sum of Rs.500/- as security. Where the election of more than one candidate is called in question, a separate deposit of an equivalent amount shall be required in respect of each such returned candidates.”

6. It is the case of the contesting respondent and the State that the deposit has to be made with the Specified Officer and not elsewhere. The appellant made a treasury deposit and produced the receipt before the Specified Officer. Learned Single Judge and the Division Bench of the High Court in the intra-Court appeal have taken a stand that the treasury deposit is not a payment in terms of Rule 7 and that the deposit is to be made by way of payment before the Specified Officer.

7. We are afraid that the stand taken by the High Court cannot be appreciated. The requirement of Rule 7 is ‘deposit of security’

and not 'payment of security' in cash before the Specified Officer. What is relevant and mandatory is the deposit of security in the name of Specified Officer, and the mode or manner of deposit is irrelevant.

8. It is not in dispute that the appellant has made a deposit of Rs.1000/- as per the Challan dated 30.03.2015. As to 'On What Account' the deposit was made, the Challan specifies it to have been made "towards Election Petition" (चुनाव याचिका बाबत). Head of Revenue (0070) is also indicated in the Treasury Challan. Significantly, even if payment is made to the Specified Officer, he has to deposit the money in the treasury through the Bank. It is the proof of such treasury deposit in the bank of the officer that is presented along with the election petition. That is an absolutely permissible mode of deposit.

9. There is no dispute that the money deposited in the bank was deposited in the name of the prescribed authority. In this context, we may also refer to a decision by the coordinate Division Bench of the Madhya Pradesh High Court in **Tika Ram v. Darshanlal**, 1988(I) M.P. Weekly Notes 192, wherein the Court held thus:

“... It is not complained that the money deposited in the Bank was not deposited in the name of prescribed authority. We do not read anything in the petition to suggest that the deposit was so made that the prescribed authority had no control over the money deposited in the State Bank wherein, admittedly, the particulars of the election-petition were mentioned. The Rule in our opinion does not lay down any inexorable requirement of deposit being made in cash with the prescribed authority as contended by the counsel.”

10. In view of the foregoing, the appeal is allowed. The impugned judgment of the High Court dated 10.02.2016 in Writ Appeal No.914 of 2015 is set-aside. The order dated 11.09.2015 passed by the Presiding Officer, Collector, Rewa in Case No.08-A-89/MAIN/14-15 is restored accordingly.

The Specified Officer is directed to dispose of the Election Petition expeditiously taking note of the fact that the prescribed period of six months has expired a long back.

11. There will be no order as to costs.

....., J.
(KURIAN JOSEPH)

....., J.
(SANJAY KISHAN KAUL)

New Delhi;
August 14, 2018