

RAJASTHAN HIGH COURT

Shrigopal Baheti

Vs.

Vasudev Devnani

S.B. Election P. No.3 of 2009

(Dalip Singh, J.)

02.02.2009

ORDER

Dalip Singh, J.

1. This election petition filed by the petitioner having been assigned by Hon'ble the Chief Justice to this Court has come up today.

2. A report was sought from the Registry as to whether the petition is accompanied by extra copies of the petition at the time of its presentation as required by subsection (3) of Section 81 of the Representation of the People Act, 1951. A report has been given by the Registry today to the effect that the process fee, notices and extra sets have not been filed.

3. Sub-section (3) of Section 81 of the Representation of the People Act, 1951 reads as under:-

"(3) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition."

(Emphasis supplied.)

4. The provisions of sub-section (3) of Section 81 of the Representation of the People Act, 1951 are mandatory in nature and require that an election petition when presented or filed shall be accompanied by as many copies thereof as there are respondents. In that view of the matter, the petitioner was required to file the extra sets of the election petition for each of the respondent which has not been done in the instant case, as is evident from the office report. The office report in the margin made by the Registry at

A to B in the box in red, reads as under:-

"P.F. and extra notices/sets not filed.
Sd/-2-2-09.

Election petition received by me without P.F./Notices and extra sets.
Sd/-2-2-09."

5. Thus, from the above report, it is clear that extra sets were not filed by the petitioners, as required. There is also no mention in the petition that the petitioner is filing along with the election petition extra sets thereof equal to the number of respondents in the petition. Thus, it is amply clear that extra sets have not been filed.

6. The question thus arises as to what is the effect of the said non-compliance of not having filed the extra sets as required by sub-section (3) of Section 81 of the Representation of the People Act, 1951. As would be seen Section 86 of the Act of 1951 has provided the consequences of the non-compliance of the mandatory provisions of the Act.

7. Section 86 of the Act of 1951 reads as under:-

"86. Trial of election petitions -

(1) The High Court shall dismiss an election petition which does not comply with the provisions of Section 81 or Section 82 or Section 117.

(2) to (7) xxx xxx xxx xxx

8. A perusal of sub-section (1) of Section 86 of the Act of 1951 goes to show that the High Court is bound to dismiss an election petition which does not comply with the provisions of Sections 81, 82 and 117.

9. In that view of the matter, since the petitioner has failed to comply with the provisions of sub-section (3) of Section 81 of the Act of 1951 and has not filed the extra sets, as required, the consequence for this default having been provided by Section 86 itself, this Court has no option but to dismiss this election petition for non-compliance of the provisions of Section 81(3) in the light of Section 86 of the Representation of the People Act, 1951.

10. This election petition accordingly stands dismissed. The Registry is directed to send the intimation, as required by Section 103 of the Act of 1951 to the Election Commission and the Speaker of the Vidhan Sabha of this order.

Petition dismissed.

