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IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

WRIT PETITION No.43.... of 2001

Budhram S/o Balki aged about 48 years,
Satnami, resident of Putekela,
Tahsil Sakti, District Janjgir
Champa, Chhattisgarh

PETITIONER

VERSUS

Luxman aged about 22 years S/o Chotelal Satnami,
resident of Chamra-Barpali, Tahsil Sakti, District
Janjgir-Champa, Chhattisgarh.

- P.R. No. 40/2001
Presented by Shri. S.T. Dehankar
dated 10/12/2001
- (2) Shri R.D.Chelak, Sub-Engineer, Hasdeo Sub Minor,
Division No.2, Presiding Officer, Polling Booth No.
128, Village Chamra Barpali, Tahsil Sakti, District
Janajgir Champa, Chhattisgarh.
- (3) Shri Ramprasad Chandra, Pradhan Pathak, Keri Bandha,
Presiding Officer Polling Booth No. 129, Village
Chamra Barpali, Tahsil Sakti, District Janjgir
Champa (Chhattisgarh).
- (4) Kumari Purnima Shrivastava, Tahsildar and Prscribed
Officer and Returning Officer, Panchayat Election
Sakti, Tahsil Sakti, District Janjgir Champa
(Chhattisgarh).
- (5) Shri S.R.Sahu, Prescribed ^{Authority} Returning Officer (Panchayat
Nirwahan Yachika) Camp Sakti, Tahsil Sakti,
District Janjgir Champa (Chhattisgarh).

RESPONDENTS

WRIT PETITION UNDER ARTICLE SEC. 226 AND 227 OF THE

CONSTITUTION OF INDIA



आदेश पत्रक

W.P. No. 43/2001

मामला क्रमांक

सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><u>27/3/2001</u></p> <p>Heard Mr. D.T. Dehankar, learned counsel for the petitioner, Mr. Pankaj Agarwal, learned counsel for the respondent no.1 & Mr. J.P. Mersha, learned counsel for respondent no.2.</p> <p>Though SPC was noticed, respondent no.1 has not come before this Court. The matter concerns the election of Sarpanch of village Putékela, Tahsil Sakti, District Janjgir. The election was held on 2/2/2000 and the result was also declared on the same date. The petitioner was declared elected. Respondent no.1 filed the election petition challenging the validity of the election of the writ petitioner. After recording evidence the election of the petitioner was set aside by the impugned order dated 30/12/2000. Though the election's result was declared on 2/2/2000, the result was notified on 3/2/2000 and the writ petitioner started to work as Sarpanch of village Putékela, Tahsil Sakti, District Janjgir, ^{with effect from 02.2.2000.} since then.</p> <p>Learned counsel for the petitioner submits that the election petition ought not to have been entertained at all</p>	

[पीछे देखिये]

आदेश पत्रक (पुर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p style="text-align: center;">.. 2 ..</p> <p>inasmuch as the said petition was submitted by an Advocate without any authority given to him by the election petitioner in this behalf. Secondly, it is also contended that the election petition could not have been entertained inasmuch as ^{the same} it was filed in contravention of Rule 7 of M.P. Panchayat Raj Adhiniyam, 1993 and Rules 1995. In terms of Rule 7 of the Rules 1995 the election petition has to be presented with a security deposit of Rs.500/- within 30 days. Drawing my attention to the order sheet, it is pointed out that on 16/2/2000 a sum of Rs.250/- was deposited. Another sum of Rs. 250/- was deposited only on 22/3/2000. Rules are mandatory. The fact that the aforesaid rules are mandatory, has been held by M.P. High Court vide 1999 J.L.J., Volume-I, Page no.200.</p> <p>Rule 8 of the said Rules stipulates that the election petition is liable to be rejected if Rule 7 is violated or not followed. It is contended that as regards the manner in which security deposit is made, no finding has been given by the prescribed authority. In the few and facts and circumstances that have been stated above, it is clear to me that there has been contravention of the provisions of Rule 7 of the said Rules in the present case. Since the said Rule is mandatory, I must hold that the election petition ought to have been rejected for non-fulfilment ^{of} after conditions laid down under the Rules.</p>	<p style="text-align: right;">..3..</p>

आदेश पत्रक

मामला क्रमांक सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>.. 3 ..</p> <p>In the result, this petition is allowed. The impugned order issued on 30/12/2000 by the Prescribed Authority is set-aside. Consequently, the ^{position} possession of the writ petitioner shall stand restored as Sarpanch.</p> <p>Certified copy today.</p> <p>Sd/- Chief Justice</p>	

[पीछे देखिये]

18/3/09
13/5/09
12/7/16/14