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**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE  
HON'BLE SHRI JUSTICE SANJAY DWIVEDI**

**ON THE 13<sup>th</sup> OF JULY, 2023**

**WRIT PETITION No. 4049 of 2023**

**BETWEEN:-**

**SMT. RANGOLI RAJAK W/O SHRI KISHANLAL RAJAK,  
AGED ABOUT 32 YEARS, OCCUPATION: SARAPANCH  
R/O GRAM PANCHAYAT MAJHAGWAN JANPAD  
PANCHAYAT PANAGAR DISTRICT JABALPUR (MADHYA  
PRADESH)**

**.....PETITIONER**

***(BY SHRI DAYARAM VISHWAKARMA - ADVOCATE)***

**AND**

- 1. THE STATE OF MADHYA PRADESH THROUGH ITS  
PRINCIPAL SECRETARY PANCHAYAT AND RURAL  
DEVELOPMENT DEPARTMENT VALLABH  
BHAWAN BHOPAL (MADHYA PRADESH)**
- 2. THE SUB DIVISIONAL OFFICER (ELECTION  
TRIBUNAL) RURAL JABALPUR TEHSIL AND  
DISTRICT JABALPUR (MADHYA PRADESH)**
- 3. SMT. SHASHI YADAV W/O SHRI ARJUN YADAV,  
AGED ABOUT 35 YEARS, R/O GRAM PANCHAYAT  
MAJHAGWAN, JANPAD PANCHAYAT PANAGAR,  
DISTRICT JABALPUR (MADHYA PRADESH)**
- 4. SMT. JYOTI PATEL W/O SHRI RAMNATH R/O  
GRAM PANCHAYAT MAJHAGWAN, JANPAD  
PANCHAYAT PANAGAR, DISTRICT JABALPUR  
(MADHYA PRADESH)**
- 5. KIRAN BAI W/O SHRI GYAN SINGH R/O GRAM  
PANCHAYAT MAJHAGWAN, JANPAD PANCHAYAT  
PANAGAR, DISTRICT JABALPUR (MADHYA  
PRADESH)**
- 6. VERSHA KOL W/O SHRI RAJU KOL R/O GRAM  
PANCHAYAT MAJHAGWAN, JANPAD PANCHAYAT  
PANAGAR, DISTRICT JABALPUR (MADHYA**

PRADESH)

7. **YASHODA BAI BANJARA W/O NARESH BANJARA  
R/O GRAM PANCHAYAT MAJHAGWAN, JANPAD  
PANCHAYAT PANAGAR, DISTRICT JABALPUR  
(MADHYA PRADESH)**
8. **ASSISTANT RETURNING OFFICER JANPAD  
PANCHAYAT PANAGAR TEHSIL PANAGAR,  
DISTRICT JABALPUR (MADHYA PRADESH)**
9. **PRESIDING ELECTION OFFICER BOOTH NO.105  
R/O GRAM PANCHAYAT MAJHAGWAN, JANPAD  
PANCHAYAT PANAGAR, DISTRICT JABALPUR  
(MADHYA PRADESH)**
10. **PRESIDING OFFICER BOOTH NO.106 R/O GRAM  
PANCHAYAT MAJHAGWAN, JANPAD PANCHAYAT  
PANAGAR, DISTRICT JABALPUR (MADHYA  
PRADESH)**
11. **PRESIDING OFFICER BOOTH NO.107 R/O GRAM  
PANCHAYAT MAJHAGWAN, JANPAD PANCHAYAT  
PANAGAR, DISTRICT JABALPUR (MADHYA  
PRADESH)**

.....RESPONDENTS

**(STATE BY SHRI L.A.S. BAGHEL - GOVERNMENT ADVOCATE)  
(RESPONDENT NO. 3 BY SHRI VIJAY SHUKLA AND SHRI SUSHIL KUMAR  
MISHRA ADVOCATES.)**

सत्यमेव जयते

*This petition coming on for admission this day, the court passed the following:*

**ORDER**

The disgruntled petitioner has knocked the doors of this Court by filing this petition under Article 226 of Constitution of India thereby challenging the order dated 13.02.2023 (Annexure-P/8) passed by the Election Tribunal in pending election petition whereby rejected the petitioner's application for dismissing the election petition on the ground that the requisite mandatory formality of depositing an amount of Rs.500/- towards security deposit at the time of presentation of election petition was not fulfilled by the election-

petitioner.

2. Learned counsel for the petitioner sanguinely submits that looking to the order-sheet dated 12.08.2022 made appendage as Annexure-P/5 although depicts that an amount of Rs.500/- was deposited through challan, which is also made part of election-petition, but it purely does not fulfill the requirement envisaged in Rule 7 of M.P. Panchayat (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 (for brevity "Rules of 1995"). For ready reference, Rule 7 is reproduced hereunder:-

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. five hundred 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.

3. Imprecating the non-fulfillment of mandatory requirement, learned counsel for the petitioner elaborates that Rule 7 clearly provides that the amount has to be deposited before the Specified Officer and it is for the Specified Officer to suggest as to in what manner it is to be deposited. He propounds that the election-petitioner cannot choose the mode to deposit the fee. Taking strength from an order passed by the Division Bench of this Court in **W.A. No. 198/2018 (Smt. Anushka Rai Vs.The Prescribed Authority/ District Magistrate)**, learned counsel for the petitioner submits that the application ought to have been allowed by the Election Tribunal and election petition should have been dismissed, conversely rejected the application observing that the submission of receipt of challan showing deposit of Rs.500/- along with election petition fulfills the requirement of Rule 7 of Rules of 1995. He iterates that the impugned order is *de hors* the requirement of Rule 7 and further contrary to law laid down by the Division Bench in case of Smt. Anushka Rai

(Supra). On such premise, learned counsel for the petitioner imploringly submits that the impugned order deserves to be set aside by allowing the instant petition.

4. In contrast, Shri Sushil Mishra appearing for respondent No. 3 (election-petitioners) submits that a reply has been filed enclosing the receipt which indicates that amount of Rs.500/- was deposited by the election-petitioner. He further clarifies that not only with challan but separately too the cash-amount was deposited, which is evident from a receipt made appendage as Annexure-R/2. He submits that in such circumstances, the order passed by the Election Tribunal cannot be in any manner said to be erroneous inasmuch as the Tribunal has rightly appreciated the amount deposited through challan. He submits that when there is no error apparent on the face of record, interference in a petition filed under Article 226 of the Constitution is not warranted. Ergo, the writ petition deserves outright dismissal.

5. It is seen from the record, that the State has also filed a reply wherein they have relied upon a decision of the Supreme Court *in re Lalli Patel v State of Madhya Pradesh & others (2018) 17 SCC 486*.

6. Patiently, I have heard the submissions made by counsel for the learned counsel for the rival parties and perused the record with circumspection.

7. Indeed, order-sheet dated 12.08.2022 (Annexure P/5) reveals that the Tribunal has accepted the Election Petition filed under Section 122 of M.P. Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993. Further it is revealed from the said order-sheet that in support of election petition an affidavit and challan of Rs.500/- were also tagged. Albeit, as per respondent No.3 a receipt dated 12.08.2022 showing deposit of Rs. 500/- has been annexed with the reply and

such receipt was also made part of election-petition which was not taken note of by the Election Tribunal.

8. At this juncture, it is apposite to go-through the law laid down by the Division Bench *in re Smt. Anushka Rai* (supra) wherein it is observed that if amount is deposited before the specified officer then only it can be considered to be a sufficient compliance of Rule 7 of Rules of 1995 and conversely if it is deposited through challan or through other mode, then such deposit cannot be considered to be a sufficient compliance for depositing the security amount as required under Rule 7 of Rules 1995. However, I respectfully disagree with such view inasmuch as the intention of the Statute is not such that the amount should be deposited and be given to specified officer but the object was to satisfy the specified officer about deposit of security amount at the time of presentation of election petition and if the specified officer is satisfied with the information submission of details of deposit made, then it can very well be treated to be sufficient compliance of Rule 7 of Rules 1995. Essentially, my view takes strength from a view taken by the Division Bench *in re 1988(1) MPWN 139 (Tikaram vs. Darshan Lal)* in which security amount was deposited in the bank and details of that deposit were mentioned in the election petition, then the Court has considered that the said deposit is the sufficient compliance for depositing the security amount. Obviously, the said decision of Division Bench was not taken note of by the Division Bench in the case of *Smt. Anushka Rai* (supra). Quite apart, the Supreme Court in the case of *Lalli Patel* (supra) has considered this issue and came to hold that Rule 7 of Rules 1995 provides deposit of security along with election petition and the said provision is considered to be mandatory but simultaneously it is observed by the Supreme Court that the mode and manner of deposit is irrelevant. The only

requirement as per the Supreme Court was to present the proof of payment of security deposit along with election petition. I feel it expedient to quote the observations of the Supreme Court, as under as under:-

3. The contesting respondent filed an application under Rule 11 of the Madhya Pradesh Panchayats (Election Petitions, 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.

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

“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.”

5. 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. The 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.

6. 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.

7. It is not in dispute that the appellant has made a deposit of Rs 1000 as per the Challan dated 30-3-2015. As to “On What Account” the deposit was made, the Challan specifies it to have been made “towards Election Petition”. The 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.

8. 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 [Tika Ram v. Darshanlal, (1988) 1 MP WN 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.”

(emphasis supplied)

9. In the case at hand, although respondent No.3 had shown deposit of security amount but that was not taken note of, therefore, this Court will not take cognizance of said slip although on the basis of admitted position the election petition contained copy of challan showing deposit of Rs.500/- towards security deposit and in my considered view that can be termed as sufficient compliance of Rule 7 of Rules of 1995. Ergo, the impugned order as does not suffer from any patent illegality or irregularity, need not warrant interference in the petition under Article 226 of the Constitution of India.

10. Finding the petition being bereft of any substance, is hereby dismissed.

(SANJAY DWIVEDI)  
JUDGE