



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 17952/2026

CNR: RJHC020869862026 | URN: CW / 37358U / 2026

Mukesh Kumar Bairwa S/o Shri Mishri Lal, Aged About 46 Years,
R/o Ambedkar Nagar Parita Road, Tehsil Wazirpur, District Sawai
Madhopur (Rajasthan)

-----Petitioner

Versus

1. State Of Rajasthan, Through Chief Election Officer And Secretary, State Election Commission, Rajasthan, Second Floor, Vikas Khand, Govt. Secretariat, Jaipur.
2. District Municipal Election Officer, (District Collector), Sawaimadhapur
3. Returning Officer, Nagarpalika (Public Election), Sawaimadhapur (Sdm, Wazirpur), Sawaimadhapur (Rajasthan).

-----Respondents

For Petitioner(s) : Mr. Raghu Nandan Sharma
For Respondent(s) : Mr. Kapil Prakash Mathur, AAG with
Mr. Ashutosh Udawat

HON'BLE MR. JUSTICE ANOOP KUMAR DHAND

Order

03/09/2026

1 The instant writ petition has been preferred with the following prayers:

"It is therefore, prayed may kindly call for the record concerning the case and after perusing the same, please accept the writ petition and by way of writ, order and direction:--

(i) issue an appropriate writ, order or direction Quash and set aside the list of eligible candidate dated 01-09-2026 passed by the returning officer, Nagarpalika (Public Election), Sawaimadhapur (SDM, Wazirpur),





Sawaimadhopur (Rajasthan), to the extend, rejected the nomination form of petitioner.

(ii) issue an appropriate writ, order or direction directing the respondent to treat the nomination form submitted by the petitioner for contesting for election for the ward member from the Ward No.14 of Nagarpalika Wazirpur.

(iii) issue an appropriate writ, order or direction directing the respondent to allow the petitioner for contesting the election by providing his symbol and if he obtain maximum vote then he may be declared as elected member of ward No.14 of Nagar Palika Wazirpur.

(iv) pass any other appropriate writ, order or direction which this Hon'ble Court may deem just, proper and expedient in the facts and circumstances of the present case; and

(v) award costs of the writ petition in favour of the petitioner."

2. By way of filing the instant writ petition, a challenge has been led to the impugned action of the respondents by which nomination of the petitioner for contesting the election for the post of Councillor (Parshad) of Ward no.14, Municipality Board, Wazirpur has been rejected. Learned counsel submits that while filing the nomination form, certain information was required to be furnished by the petitioner with regard to any stay or interim order having been granted to him by any Court having jurisdiction. The petitioner rightly selected the option 'NO' that no stay order is operating since there is no stay order in the criminal case for which the petitioner is facing trial for offence under Section 308 of IPC before the Trial Court. It is submitted that this cannot be a reason for rejection of nomination of the petitioner and to deprive him from contesting the forthcoming Municipal Elections. Counsel submits that by rejecting the nomination form of the petitioner improperly, now only one candidate has remained who would be



declared as a winning candidate even without contesting the election. He further submits that the person who is co-accused with the petitioner in the same criminal case/offence, facing same trial under Section 308 of IPC has been allowed to contest the election and his nomination form has not been rejected. Hence, interference of this Court is warranted.

3. Heard and considered the submissions made at the Bar and perused the material available on the record.

4. The only issue involved in the instant petition is improper rejection of the nomination form of the petitioner by the Returning Officer. As per Section 31 of the Rajasthan Municipalities Act, 2009 (for short 'Act of 2009'), improper rejection or acceptance of nomination paper is a ground for declaring an election as void. As per the mandate contained under law, no election shall be called in question except by an election petition.

5. The Hon'ble Apex Court in the case of **N.P. Ponnuswami v. Returning Officer, Namakkal Constituency and Ors.** reported in **(1952) 1 SCC 94** has held that the term election is used to embrace the whole procedure of election and it is not confined only to the final result thereof, but rejection or acceptance of nomination form is also included. In this term, it is improper rejection or acceptance of nomination is continuing part of the election process which can be called in question only by filing an election petition under Section 31 of the Act of 2009.



6. For ready reference the provisions contained under Section 31 of the Rajasthan Municipalities Act, 2009 are re-produced as under:

"31. Election petition.- (1) The election of any person as a member of a Municipality may be questioned by an election petition filed within one month from the date of election before the District Judge having territorial jurisdiction over the municipal area on one or more of the following grounds, namely:-

(a) that on the date of election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under this Act, or

(b) that any corrupt practice specified in section 29 has been committed by a returned candidate or his election agent or by any other person, with the consent of a returned candidate or his election agent, or

(c) that any nomination has been improperly rejected, or

(d) that the result of the election, in so far as it concerns a returned candidate has been materially affected-

(i) by the improper acceptance of any nomination, or

(ii) by any corrupt practice committed in the interest of the returned candidate by a person other than that candidate or his election agent or a person acting with the consent of such candidate or election agent, or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(iv) by any non-compliance with the provisions of this Act or of any rules or orders made thereunder, or

(e) that in fact the petitioner or some other candidate received a majority of the valid votes, or





(f) that, but for the votes obtained by the returned candidate by corrupt practices, the petitioner or some other candidate would have obtained a majority of the valid votes.

(2) In hearing the election petition, the District Judge shall follow such procedure and exercise such powers as may be prescribed."

7. Legislature has placed improper rejection and improper acceptance of nomination on the same footing, and these are the grounds available under Section 31 of the Act of 2009 for declaring the election to be void. Hence, it is clear from the bare reading of the above provisions that rejection and acceptance of the nomination papers is one of the ground for declaring the election as void and an Election Petition is required to be submitted in this regard. Hence, it is clear that the instant writ petition, challenging the improper rejection of nomination form, would not be maintainable as the remedy available to the petitioner is to file Election Petition in terms of Section 31 of the Act of 2001. This Court under Article 226 of the Constitution of India would not be in a position to examine as to whether the grounds on which the nomination form of the petitioner has been rejected are flimsy or whether they are substantial or not.

8. Accordingly, the petition stands dismissed in limine. The stay application/all pending applications stands dismissed.

(ANOOP KUMAR DHAND),J

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