

Tej Parkash
Singh
and another
v.
The Director,
Consolidation of
Holdings, Pun-
jab, Jullundur
and others

For the foregoing reasons, this petition fails and is hereby dismissed with costs.

B.R.T.

CIVIL MISCELLANEOUS

Before Prem Chand Pandit, J.

AMAR NATH GUPTA,—*Petitioner.*

versus

SUB-DIVISIONAL OFFICER (CIVIL) FARIDKOT,—*Respondent.*

Civil Writ No. 135 of 1965.

1965
March, 11th.

Punjab Agricultural Produce Markets (Election Market Committee) Rules, 1961—Rule 8—Interpretation of—Receipt of security deposit—Whether. must be attached with the nomination paper.

Held, that a plain reading of rule 8 of the Punjab Agricultural Produce Markets (Election to Market Committee) Rules, 1961, would show that every candidate at or before the time of the delivery of his nomination paper is required to deposit a sum of Rs. 20 either with the Returning Officer or in the office of the Committee of the notified market area. A further duty is cast upon him to produce a receipt for the said deposit along with the nomination paper. The rule also states that no candidate shall be deemed to be duly nominated unless such deposit has been made. In other words, the actual deposit of the security and not the attaching of the receipt therefor is the condition precedent for the proper nomination of a candidate. The essential condition for a valid nomination is the actual deposit of the security before the filing of the nomination paper. The production of the receipt therefor is only to prove that such deposit has been made. By its mere non-production, therefore, a nomination paper cannot be rejected. There is a substantial compliance with this rule if the said deposit has actually been made, though the receipt therefor has not been attached along with the nomination paper. In this respect the rule is merely directory and not mandatory and if a Returning Officer has any doubt in his mind about the deposit of security by a candidate, he should give him reasonable time to produce the receipt.

Petition under Article 226 of the constitution of India praying that an appropriate writ, order or direction be issued quashing the order of respondents, dated the 4th of March, 1965, and the nomination papers filed by the petitioner be declared as valid and proper.

G. C. MITTAL, ADVOCATE, for the Petitioner.

M. R. AGNIHOTRI AND B. S. DHILLON, ADVOCATES, for the Respondent.

ORDER

PANDIT, J.—This is a petition under Article 226 of the Constitution filed by Amar Nath Gupta, challenging the order, dated 14th of August, 1964, passed by the Sub-divisional Officer (Civil), Faridkot, respondent, who was acting as the Returning Officer, for the election to the Market Committee, Kot Kapura, district Bhatinda, rejecting his nomination paper.

Pandit, J.

The petitioner is a partner of firm, Des Raj-Sohan Lal, situate at Kot Kapura. This firm is a licensee under section 10, of the Punjab Agricultural Produce Markets Act, 1961, (Punjab Act, No. 23 of 1961). Since the term of the members of the Market Committee, Kot Kapura, had expired, fresh elections to the said Committee had to be held. According to section 12 of the Act, four members from persons licensed under section 10, for the notified market area concerned had to be elected by persons licensed under that section. Accordingly, the petitioner filed his nomination paper, duly completed in all respects, on form 'E' under rule 7(2) of the Punjab Agricultural Produce Markets (Election to Market Committee) Rules, 1961, on 11th of August, 1964, before the prescribed, date (12th of August, 1964). Before filing the nomination paper, he also deposited in the office of the notified market area Committee the election security, as required by rule 8, on that very day. The receipt for the same was not, however, attached by him along with the nomination paper. According to the petitioner, at the time of the filing of the nomination paper, he produced the said receipt before the respondent who, however, asked him to keep the same with him and told him not to attach it with the nomination papers. The Returning Officer, however, in his return has stated that he had no knowledge whether the election security was deposited by the petitioner before the filing of the nomination paper and he never asked the petitioner to keep the security deposit receipt with him. At the time of the scrutiny of the nomination papers on 14th of August, 1964, at Faridkot, the