

Before : S. S. Sodhi, J.

ISHER SINGH,—*Petitioner.*

versus

SIMRANJIT SINGH MANN AND OTHERS,—*Respondents.*

Election Petition No. 7 of 1990.

15th February, 1990.

Representation of People Act, 1971—Ss. 86(1) and 117—Non-deposit of security alongwith Election Petition—Petition liable to be dismissed in limine—Court has no power to grant exemption from deposit.

Held, that no power or authority is conferred upon the Court to either absolve the petitioner from making the security deposit of Rs. 2,000 or even to reduce the amount required to be deposited under S. 117 of the Representation of People Act, 1971. Hence, the petitioner is liable to be dismissed for non-payment of security within the period prescribed.

(Para 2)

Election Petition under the provisions of Chapter II, Sections, 80 and 81 and 100 of the Representation of People Act, 1951 praying that:

- (i) *that the election of Shri Simranjit Singh Mann, may be declared void ;*
- (ii) *disqualify the respondent No. 1 for a period of 6 years ;*
- (iii) *that Shri Simranjit Singh Mann may be restrained from taking oath of the office of Member Parliament till the final disposal of the petition ;*
- (iv) *that the petitioner may be declared elected as Member Parliament ;*
- (v) *any other suitable order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case may also be issued which may meet the ends of justice ;*
- (vi) *costs of the petition may also be awarded.*

Ishar Singh, petitioner in person.

Isher Singh v. Simranjit Singh Mann and others (S. S. Sodhi, J.)

ORDER

The challenge here to the election of Shri Simranjit Singh Mann to the Lok Sabha from the Tarn Taran Parliamentary Constituency in the elections held in November, 1989, stands thwarted at the very threshold by virtue of the provisions of sub-section (1) of Section 86 of the Representation of the People Act, 1971 (hereinafter referred to as "the Act") by the failure on the part of the petitioner to deposit security for costs as required by Section 117 thereof.

There is no doubt an application by the petitioner seeking exemption from depositing Rs. 2,000 as security for costs, but a reference to the provisions of the Act would show that no power or authority is conferred upon the Court to either absolve the petitioner from making the security deposit or even to reduce the amount required to be deposited. In dealing with this matter, it would be pertinent to advert to *Charan Lal Sahu v. Nandkishore Bhatt and others* (1), where, it was observed "Any discretion to condone the delay in presentation of the petitioner or to absolve the petitioner from payment of security for costs can only be provided under the statute governing election disputes. If no discretion is conferred in respect of any of these matters, none can be exercised under any general law or any principle of equity. "It was accordingly held that non-deposit of the security along with Election petition as required under Section 117 of the Act, leaves no option to the Court but to reject it. This was later followed by the Supreme Court in *Aeltemesh Rein v. Chandulal Chandrakar and others* (2).

Such thus being the settled position in law, this petition is hereby dismissed for non-payment of security within the period prescribed in law.

R.N.R.

(1) A.I.R. 1973 S.C. 2464.

(2) A.I.R. 1981 S.C. 1199.