

For the reasons given above, the petitions by the tenants (Writ Petitions Nos. 1753-1960, 393 and 397 of 1961, 456 of 1961 and Civil Miscellaneous Petition No. 3071 of 1961) are allowed. The orders of the authorities below are quashed. In the circumstances of the case, the parties are left to bear their own costs.

PANDIT, J.—Without going into the question of the correctness or otherwise of the Financial Commissioner's decision in *Suba Singh's case*, I agree with my learned brother that in view of the later amendment of section 6 of the Act in 1962, the petitions filed by the tenants be allowed with no order as to costs.
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APPELLATE CIVIL

Before Mehar Singh and Inder Dev Dua, JJ.

MOOL CHAND JAIN,—Appellant.

versus

RULIA RAM AND ANOTHER,—Respondents.

First Appeal From Order 1/E of 1963.

Representation of the People Act (XLIII of 1951)—Ss. 82 and 123—Candidate duly nominated but withdrawing within the period allowed for withdrawal—Allegations of bribery made against him in an election petition—Such candidate—Whether necessary party to the petition—effect of not impleading him—Promise to help such candidate's relative in another constituency in consideration of his withdrawal made by returned candidate—Whether amounts to bribery.

Held, that a candidate who has been duly nominated but withdraws within the period allowed for withdrawal is a candidate within the meaning of section 82(2) of the Representation of the People Act, 1951 and if allegations of corrupt practice of bribery are made against him in an election petition, he must be made a party to the petition. Failure to implead him as a respondent is a non-compliance with the provisions of section 82 and will entail the dismissal of the election petition under section 90(3) of the said Act.

Held, that the meaning of the word "gratification" in section 123(1) (B) of the Representation of the People Act,

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1951, is the ordinary dictionary meaning that has to be taken with the explanation of the meaning as appearing from the Explanation to that provision. The Explanation does not give complete definition of the term 'gratification' and all that it does is to remove any possible ambiguity by stating negatively that the term is not restricted to pecuniary gratifications or gratifications estimable in money so that it embraces all forms of gratifications in the ordinary and simple meaning of the term 'gratification' but in addition the Parliament has further taken care to make it clear that the term includes all forms of entertainment and all forms of employment for reward.' This is explanatory of the meaning of the term 'gratification' and is not restrictive of the same. The scope of the meaning of the word 'gratification' is thus very wide and will cover any return which pleases for some favour done. An offer made and agreed to by the returned candidate to another candidate to induce him to withdraw from the contest on condition that the returned candidate will help the withdrawing candidate's brother in another constituency amounts to an agreement to receive gratification in the form of the support of the returned candidate for the withdrawing candidate's brother and is a corrupt practice of bribery within the meaning of the term in section 123(1) (B) of the Act.

First Appeal from the order of the Court of Shri Sant Ram Garg, Member Election Tribunal Ambala dated the 29th December, 1962 dismissing the petition in limine and leaving the parties to bear their own costs.

ANAND SARUP AND R. S. MITTAL ADVOCATE, for the Appellants.

D. N. AGGARWAL R. N. AGGARWAL AND
NARESH CHANDER JAIN ADVOCATES for the Respondents.

JUDGMENT

Mehar Singh, J. MEHAR SINGH, J.—The appellant's election petition against the return of Shri Rulia Ram, respondent 1, to Punjab Legislative Assembly from Gharaunda Constituency, at the last elections, has been dismissed by the learned Tribunal by its order of October 29, 1962, under sub-section (3) of section 90 of the Representation of People Act, 1951 (Act 43 of 1951) on the ground of non-compliance with section 82 in that Shri

Jai Singh and Shri Zila Singh, were necessary parties under that section and have not been impleaded as respondents to the election petition in these circumstances.

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The appellant impleaded Shri Rulia Ram as respondent 1 and Shri Ram Sarup as respondent 2 to his election petition. In paragraph (d) (iv)(1) the appellant made this charge of corrupt practice against respondent 1 and Shri Jai Singh:—

“(D) That your humble petitioner asserts that the election of respondent No. 1 as member of the Legislative Assembly is void and is liable to be declared as such on the following grounds:—

(iv) that respondent No. 1 himself and through his Election Agent and other persons acting with his consent committed the corrupt practice of bribery in the form of—

(1) offering gratification to respondent No. 2 as a reward for having stood in the election and for not withdrawing till the date of election and to Shri Jai Singh, candidate who withdrew his name as a reward for supporting his brother in the neighbouring constituency of Samalkha by respondent No. 1.”

In annexure 1 to the election petition are given particulars of bribery and paragraph 2 says—

“2. Respondent No. 1 approached Shri Jai Singh, who was a candidate, at Panipat on 1st February, 1962, that if he and Shri Zila

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Singh withdrew from the contest from Gharaunda constituency he would actively support Ch: Dharam Singh Rathi in Samalkha constituency. This happened in the presence of Shri Shugan Chand Azad and others. Accordingly they withdrew their names."

There being two respondents to the election petition, Shri Jai Singh and Shri Zila Singh are not respondents to it.

In the Act section 82 provides—

"82. Parties to the petition—A petitioner shall join as respondents to his petition—

(a) where the petitioner, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates; and

(b) any other candidate against whom allegations of any corrupt practice are made in the petition."

In section 85 it is provided that if the provisions of section 82 have not been complied with, the Election Commission shall dismiss the petition and sub-section (3) of section 90 says that "the Tribunal shall dismiss an election petition which does not comply with the provisions of * * * * section 82 notwithstanding that it has not been dismissed by the Election Commission under section 85". Section 123 of

the Act, so far as relevant for the present purpose, is in these words—

“123. *Corrupt Practices*.—The following shall be deemed to be corrupt practices for the purposes of this Act:—

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- (1) “Bribery”, that is to say—
- (B) the receipt of, or agreement to receive any gratification, whether as a motive or a reward,
- (a) by a person for standing or not standing as, or for withdrawing from being, a candidate; or
- (b) * * * * *

Explanation.—For the purposes of this clause the term “gratification” is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in section 78.”

The position on behalf of respondent 1 has been that Shri Jai Singh and Zila Singh are candidates within the scope of section 82 and as allegation of corrupt practice has been made against them by the appellant within the meaning and scope of section 123(1)(B)(a), inasmuch as they withdrew from the election contest in Gharaunda constituency on an agreement with respondent 1 to receive gratification in the shape of active support to Shri Dharam Singh Rathi, brother of Shri Jai Singh, in his contest in the Samalkha constituency, so it was imperative for the appellant under section 82 to join Shri Jai Singh and

Mool Chand Shri Zila Singh as respondents to the election petition. This he not having done, he has not complied with section 82 and his petition must be dismissed under sub-section (3) of section 90. The position urged on behalf of the appellant has been (a) that Shri Jai Singh and Shri Zila Singh are not candidates within the meaning and scope of section 82, and (b) that what is alleged by the appellant in regard to Shri Jai Singh and Shri Zila Singh does not amount to corrupt practice under section 123 in so far as these two are concerned.

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The learned Tribunal has negatived the argument in this respect on the side of the appellant finding that both Shri Jai Singh and Shri Zila Singh are candidates within the meaning and scope of section 82 and that the allegation with regard to them is "bribery" as that expression is used in section 123 inasmuch as the allegation is that they agreed to withdraw from contest in Gharaunda constituency upon offer of recompense by respondent 1 to them of support to brother of Shri Jai Singh, namely, Chaudhri Dharam Singh Ra'hi, in latter's election contest in the Samalkha constituency, and that that amounts to agreement to receive gratification on the part of Shri Jai Singh and Shri Zila Singh as a motive or reward for withdrawing from the election contest in the Gharaunda constituency. Consequently an allegation of corrupt practice having been made against Shri Jai Singh and Shri Zila Singh, according to section 82(b), the appellant was enjoined to make them respondents to his election petition, and not having done so he has not complied with section 82, with the result that his election petition has been dismissed under sub-section (3) of section 90.

In this appeal, as was the case before the learned Tribunal, there are two questions for consideration—
(a) whether Shri Jai Singh and Shri Zila Singh are

candidates within the meaning and scope of section 82, and (b) whether what is alleged by the appellant in his election petition against them amounts to the corrupt practice of 'bribery' according to section 123?

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The provisions as to disputes regarding elections are given in Part VI of the Act. In Chapter I there is definition of the word 'candidate' in section 79(b) and this definition reads:—

"79. In this part and in Parts VII and VIII, unless the context otherwise requires,—

(b) "candidate" means a person who has been or claims to have been duly nominated as a candidate at any election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;"

It is obvious that a person who has been duly nominated as a candidate is a 'candidate' within the definition of this word in this section. He remains a candidate even though after having been duly nominated he withdraw. The words of the definition itself are clear and there is no manner of ambiguity in this respect. The learned counsel for the appellant contends that the definition of the word is subject to the requirement of the context otherwise, and he contends that the context of section 82 does require otherwise; and what he suggests is that the only candidates envisaged by that section are contesting candidates or returned candidates. This, however, is obviously not correct on plain reading of that section. Clause (a) of that section refers to (a) returned candidates, and (b) contesting candidates. It does not refer to any other class of candidates. But that clause concerns

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claim for a declaration to avoid an election where the petitioner in addition claims a declaration for himself or for any other candidate that he has been duly elected when all contesting candidates must be made respondents to the election petition, and when he claims no such declaration in addition, but merely claims declaration avoiding the election, then only all the returned candidates must be made respondents to the election petition. There is clause (b) of this section which says that 'any other candidate against whom allegations of any corrupt practice are made in the petition' shall be made a party to the election petition. The expression 'any other candidate' in this clause obviously means the type of candidates other than those referred to in clause (a) of this section. The question is what class of candidates falls within the meaning and scope of the expression 'any other candidate' in clause (b) of this section? There are four classes of candidates in the Act, (a) validly nominated candidates (section 36), (b) a candidate or candidates who has or have withdrawn (sections 37 and 38), (c) contesting candidates (section 38) and (d) a returned candidate (section 79(f)). Previously there was another class of candidates that is a candidate who retired from the contest. This was provided in section 55A which has, however, been repealed by section 22 of the Representation of the People (Amendment) Act, 1958 (Act 58 of 1958). These are the four classes of candidates referred to in the Act. All duly nominated candidates who have not withdrawn become contesting candidates. So clause (a) of section 82 concerns contesting candidates, which obviously means and includes validly nominated candidates who have not withdrawn, and returned candidates. This clause covers these three classes of candidates. The only other class of candidates which remains outside this clause is the class of candidates who after being validly nominated have withdrawn

within the prescribed period. It is thus obvious that the expression 'any other candidate' in clause (b) of section 82 refers to this clause of candidates. There is thus nothing in the context of section 82 which requires any other meaning to be given to the word 'candidate'. In this view Shri Jai Singh and Shri Zila Singh are candidates as that word is used in section 82(b). This finds support from *S. B. Adityan v. S. Kandaswami and others* (1), which approved the decision of the Madras High Court in the same case reported as *S. B. Adityan and another v. S. Kandaswami and others* (2), *Chaturbhuj Chunilal v. Election Tribunal, Kanpur* (3), *Baburao Tatyaji Bhosle v. Madho Shrihari Aney* (4) and *Badri Narain Singh v. Kamdeo Prasad Singh* (5). In this last case the earlier Patna case, *Kapildeo Singh v. Suraj Narain Singh* (6), taking a view to the contrary has not been accepted as laying down good law. The conclusion of the learned Tribunal in this respect is thus maintained that on the allegations in the petition either of Shri Jai Singh and Shri Zila Singh is a 'candidate' as that word is used in clause (b) of section 82.

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The answer to the second question depends upon the meaning of the word 'gratification' as used in section 123(1)(B). The explanation to this clause says that this term is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward. It is immediately apparent that this explanation is not a complete definition of the word. All the same, the learned counsel for the appellant has contended that Parliament considered ordinary and normal meaning of this word to be pecuniary gratifications or gratifications estimable in

- (1) A.I.R. 1958 S.C. 857.
- (2) A.I.R. 1958 Mad. 171.
- (3) A.I.R. 1958 All. 809.
- (4) A.I.R. 1961 Bom. 29.
- (5) A.I.R. 1961 Pat. 41.
- (6) A.I.R. 1959 Pat. 250.

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money', and that is why it has had to say in the negative that the meaning of the word is not restricted to such gratifications alone, and then it has included two other forms of gratifications. The learned counsel urges that the meaning of this is that Parliament has limited the meaning of the word 'gratification' in this provision to (i) pecuniary gratifications, or (ii) gratifications estimable in money, or (iii) all forms of entertainment, or (iv) all forms of employment for reward. The Parliament having in the negative provided that the term is not restricted in the first two forms of gratifications but includes the other two forms also, according to the learned counsel, this exhausts the meaning and scope of this term. It is obvious that this approach is entirely untenable for the explanation, as stated, does not give complete definition of the term 'gratification', and all that it does is to remove any possible ambiguity by stating negatively that the term is not restricted to pecuniary gratifications or gratifications estimable in money so that it embraces all forms of gratifications in the ordinary and simple meaning of the term 'gratification', but in addition the Parliament has further taken care to make it clear that the term includes 'all forms of entertainment and all forms of employment for reward'. This is explanatory of the meaning of the term 'gratification' and is not restrictive of the same in the sense in which the learned counsel has contended. The approach of the learned Tribunal is, therefore, correct that ordinary and dictionary meaning of the term 'gratification' is to be taken, the term itself not having been defined in the Act, read with the explanation regarding it that it is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward. In Webster's Dictionary the meaning of the word 'gratify' is—

"1. To show gratitude to (a person) or for

(service or the like); to require. 2. To give or be a source of pleasure or satisfaction to; any beauty gratifies the eye; hence to oblige; favour; as to gratify a friend; to indulge as to gratify humor, a whim, 3. To receive or greet with pleasure; to welcome. To grace; adorn.”

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The meaning of the word ‘gratification’ given is—

- “1. A gratifying or state of being gratified.
2. A reward; a recompense; a gratuity.
3. A source of gratification; something that pleases. 4. Expression of gratification, as in congratulation.”

The meaning of the word ‘recompense’ in this dictionary are—

- “1. To give compensation to; to requite; remunerate; compensate; 2. To give an equivalent for; to make up for as by atoning or requiting; to pay for. 3. To return in kind; to reciprocate as by rewarding or avenging; to pay back.”

In the Shorter Oxford Dictionary the meaning of word ‘gratify’ is—

1. To show gratitude to; to reward requite,
2. To make a present (usually of money) or give a gratuity to, esp. as a recompense, or as a bribe. 3. To express pleasure at.
4. To give pleasure to; to please, oblige; to do a favour to. 5. To please by compliance; to honour, include; to comply with; to concede (an objection). 6. To render acceptable.”

and the meaning of the word ‘gratification’ is—

- “1. The act of gratifying, 2. The state of fact of being gratified or pleased; enjoyment,

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satisfaction. 3. A reward, recompense, gratuity; a bribe.”

In the same dictionary this is the meaning of the word ‘recompense’—

- “1. To reward, requite, repay (a person) for something done or given. To compensate (a person) for some loss or injury sustained. 2. To make up for (some loss, injury, defect, etc.); to take the place of. To make compensation or atonement for (a misdeed wrong, etc.). To make a return or requital for (something done or given) 3. To meet out in requital. 4. To make repayment, return, or amends.”

The scope of the meaning of the word ‘gratification’ is thus very wide and will cover any return which pleases for some favour done. With this wide meaning of this word it is clear that the allegation that the offer made and agreed to by respondent 1 to induce Shri Jai Singh and Shri Zila Singh to withdraw from the contest of Gharaunda constituency for his support to Shri Jai Singh’s brother in Samalkha constituency was, within the meaning and scope of section 123(1)(B), an allegation of an agreement to receive gratification in the shape of the support of respondent 1 to Shri Jai Singh’s brother’s candidacy in the Samalkha constituency as motive or reward for his and Shri Zila Singh’s withdrawing from the contest in the Gharaunda constituency leaving the ground clear for respondent 1 for the contest. The first part of explanation to section 123(1)(B) is verbatim taken from the second explanation to section 161 of the Penal Code, which says—“Gratification”. The word “gratification” is not restricted to pecuniary gratifications, or to gratifications estimable in money.” Rattan

Lal in his Law of Crimes 1961 Edition at page 387, comments—

“‘Gratification’ includes all gratifications of appetite and all honorary distinctions”;

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and Gaur in his Penal Law of India, 7th Edition 1961, Volume 1, page 763, says this on the question : What is gratification?—

“Secondly, the person must have received “any gratification” as a “motive or reward” for doing any official act. The word “gratification” is not defined in the section or the Code, but its sense is extended by the explanation which says that the word “is not restricted to pecuniary gratification, or to gratification estimable in money.” The word “gratification” is thus used in its larger sense as connoting anything which affords gratification or satisfaction or pleasure to the taste, appetite or the mind. Money is of course, one source of affording pleasure, inasmuch as it implies command over things which afford pleasure but there are various other objects which afford gratification. The satisfaction of one’s desires, whether of body or of mind, is a gratification in the true sense of the term. The craving for an honorary distinction, or for sexual intercourse is an example of mental and bodily desires, the satisfaction of which is gratification not estimable in money. A person may desire to marry his son to another’s daughter, who may consent to the match on condition of his doing him some official favour. It is bribery. A person may be taken into a caste on his promising to do an official act as a motive or reward

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for his readmission. It is bribery. In short, gratification is any benefit or reward given to influence one in one's behaviour in office, and incline one to act contrary to the rules of honesty and integrity. Anything, whether a sum of money, an object which appeals to one's senses, a dinner, a plateful of fruit, a medicinal pill, is gratification within the meaning of the term, though the recipient may not be punishable on that account. The expression "gratification" is used in this section in the sense of anything which gives satisfaction to the recipient."

The meaning of this expression in section 161 of the Penal Code and in section 123(1)(B) of Act 43 of 1951, the phraseology being reproduction, is the same, except that in the latter case certain forms of gratifications are expressly included within the meaning of this term. It is clear in view of what has been stated that the meaning of the word "gratification" in section 123(1)(B) is the ordinary dictionary meaning that has to be taken with the explanation of the meaning as appearing from the Explanation to that provision. It has already been stated that within the ordinary dictionary meaning of that term what is alleged with regard to Shri Jai Singh and Shri Zila Singh as an agreement by them amounts to gratification within the meaning of the provision just referred to for their withdrawal from being candidates in Gharaunda constituency for support of respondent 1 to Shri Jai Singh's brother in Samalkha constituency. The learned counsel for the appellant first refers to *Gokulananda Praharaj v. Jogesh Chandra Rout* (7), and points out that in that case an offer and assurance to a candidate fighting an election that in the next

(7) (1959) 18 Election Law Reports 76.

elections he will be supported as a congress candidate if he withdrew from the contest in which he was engaged, has been held by the learned Judges not to amount to any offer or promise of gratification and hence corrupt practice of bribery within section 123 (1) or (2); but the ground upon which the learned Judges have proceeded was that any such offer or assurance was not of substance because the candidate who withdrew having been himself an old member of the Congress, was aware of the value of such promise for the next election, and the learned Judges were of the opinion that the offer or assurance was a mere pious wish expressed by the signatories to the letter which letter had been given to the withdrawing candidate and that it was nothing more than that. In fact the learned Judges found that there really was no promise as claimed in substance. This case on facts is, therefore, not of any assistance to the appellant. The learned counsel for the appellant has then referred to this passage in Article 332, at page 449, of the *Corpus Juris Secundum*, Volume 29,—

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“Procuring withdrawal of opposing-candidate.

It is not bribery for a candidate for political office to pay money or offer other inducements to procure the withdrawal of an opposing candidate and an indorsement of himself by the supporters of such candidates.”

As such this statement seems to lend some support to the claim on behalf of the appellant, but this is based on the case of *State v. Bland* (8). In that case the corrupt practice alleged was not an improper or illegal withdrawal from candidature but procuring votes of a candidate induced to withdraw by means of bribery. In short the corrupt practice alleged was

(8) (1898) 46 South Western Reporter 440.

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bribery of voters and the learned Judges held that obtaining withdrawal of a candidate at an election and support from his supporters is not 'bribery of voters'. At page 444 they say—

Mehar Singh, J. "The history of the legislation against corrupt practices in elections confirms and emphasizes the view we have taken that fusions between political parties, or such acts as are charged in this case, are not within the scope of the act of 1893. This act was manifestly patterned after the English corrupt practices acts of 1854 (17 and 18 Vict. c. 102, p. 522) and 1883 (46 and 47 Vict. c. 51, p. 242). In the English statute of 1854 there was no prohibition against inducing the withdrawal of a candidate at an election by any means that might be employed to accomplish the purpose. It was not until 1883 that procuring the withdrawal of a candidate was prohibited. Then for the first time the ban of the law was laid upon such practices. The fifteenth section of the English act 1883 is as follows: "Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment, shall be guilty of illegal payment, and any person withdrawing, in pursuance of such inducement or procurement shall also be guilty of illegal payment." Prior to the adoption of this regulation the English law had for years contained provisions, in almost the same words as our act of 1893, against bribery of voters, and the expenditure of more money than the limit fixed by the act, besides various other provisions not included in our act; but until 1883 it had

not been deemed necessary or expedient to prohibit one candidate from securing the withdrawal of an opposing candidate. We have adopted the old English law, but have not yet enacted any law similar to the section quoted of the English law of 1883; until the legislature sees fit to enact such a law, we cannot, by construction, enlarge the provisions of the act of 1893, so as to add to the acts now prohibited other acts, such as those charged in this case."

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It is apparent that securing of withdrawal of an opposing candidate was not in that case a corrupt practice and that case, therefore, does not support the claim of the appellant. The passage from *Corpus Juris Secundum* is based on that case and, therefore, does not advance the argument on behalf of the appellant. In this connection it has further been contended by the learned counsel for the appellant that obtaining withdrawal of an opposing candidate is a normal political practice and goes on all the time. This is some political arrangement between the parties and sometimes within a political party itself. He presses that such arrangement cannot possibly be taken to be 'bribery' within the scope of section 123. The meaning of the term 'bribery' is given by the statute in section 123 and no such contention as has been urged as above by the learned counsel can be taken into consideration in finding the meaning of the term for that matter the language used in the statute must alone be resorted to. The view taken by the learned Tribunal thus even on the second question is correct.

The consequence is that corrupt practice of bribery has been alleged in the election petition of the appellant against Shri Jai Singh and Shri Zila Singh, two candidates who were validly and duly

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nominated but withdrew from the contest and the appellant has not made them respondents to the petition as is the imperative requirement of section 82. When there is non-compliance of the provisions of this section then the Tribunal must dismiss an election petition under sub-section (3) of section 90 of Act 43 of 1951. The learned Tribunal has on this consideration in fact dismissed the appellant's election petition. This appeal, therefore, fails, and is dismissed, but, in the circumstances of this appeal, the parties are left to their own costs.

Dua, J.

DUA, J.—I have carefully read the judgment prepared by my learned brother and after devoting my best attention to the case I agree with the final order that this appeal fails, but with a certain degree of hesitation.

It is unnecessary to re-state the facts of the case which have been fully stated in the judgment of my learned brother. It is equally unnecessary to reproduce section 123(1)(B) of the Representation of the People Act which concerns us in this case, because it has also been produced, so far as relevant, in the said judgment.

The word "gratification" has, as is clear from the judgment of my learned brother, a varied meaning. The Court is, however, confronted with the task of discovering its meaning as intended by the Parliament when used in the above section. For discovering the legislative intendment, *inter alia*, the context in which the word is used, the purpose and object of the statutory instrument concerned, including the vice or the mischief intended to be remedied are, as is well-settled, relevant factors to be taken into account. In order properly to appreciate the cogency of the alternative interpretations suggested it would further appear not to be wholly irrelevant or inap-

propriate to keep in view the usual practice in democratic systems of representative government based on elective process like the one we have adopted, particularly when the system recognises and proceeds on the basis of the existence of organised political parties for fighting elections, and to see as to how far the Parliament may have intended to prohibit and invalidate such a practice.

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Now it is a matter of common knowledge that political parties often make plans well in advance of the actual elections, for setting up certain candidates in certain constituencies, and, not infrequently, come to arrangements and alliances amongst themselves or even with individual persons planning to seek election to legislative bodies, for reciprocal support for the various candidates set up from different constituencies. Such arrangements may, on occasions, take place even on the eve of elections and perhaps during the course of elections. This, so far as I am aware, has seldom—if ever—, been considered by judicial pronouncement to amount to “Bribery”. At least our attention at the bar has not been drawn to any decided case in which such an arrangement has been so held. I would, therefore, feel somewhat hesitant in holding that withdrawal of one’s candidature in lieu of or in response to, a promise held out for supporting another person’s candidature in some other constituency, would fall within the mischief of “Bribery” as defined in section 123 of the Act. Such a construction is likely to cut at the root of the widespread practice, just mentioned, prevailing in this country. I am also not quite certain if section 161, Indian Penal Code, can afford any direct or useful guidance in understanding the precise legislative intent as embodied in section 123. Section 161, Indian Penal Code, deals with public servants. Obviously, it may not be easy to equate such a case with the case of a person who is

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going to stand as a candidate for election to a Legislature and who withdraws from his candidature on account of some political arrangement relating to election in some other constituency.

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Although I entertain a certain amount of doubt about the correctness of the view adopted by my learned brother as to the meaning and scope of the word "Bribery" as used in reference to the withdrawal of a candidate's candidature, I would not like to press my doubt to the point of positive and express dissent from his opinion. And this for two reasons: first, because I have great respect for the opinion of my learned brother and would be reluctant in too readily disagreeing with him; and in the second place because on the arguments addressed at the bar I have not been persuaded, as at present advised, to hold that the appellant has succeeded in dislodging the view of the tribunal by showing it to be clearly wrong. With these observations and without pursuing the matter further I agree with the final order proposed, though not wholly without hesitation.

B.R.T.

Before D. Falshaw, C.J. and Jindra Lal, J.

BIR SNGH AND OTHERS,—Petitioners.

versus

THE STATE OF PUNJAB AND OTHERS,—Respondents.

Civil Writ No. 449 of 1962.

1963

May, 21st.

Pepsu Tenancy and Agricultural Lands Act (XIII of 1955)—Ss. 23 FF and 32 K.K.—Partition amongst members of Joint Hindus family effected between 21st of August, 1956 and 30th of October, 1956—Whether amounts to disposition of land.

Held that section 32 KK of the Pepsu Tenancy and Agricultural Lands Act, 1955 is no more than a clarification