

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

1. CR No.1197 of 2017 (O&M)  
Date of decision : 16.05.2018

Bant Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

2. CR No.1198 of 2017 (O&M)  
Date of decision : 16.05.2018

Rajesh Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. S.S. Sahu, Advocate for the petitioner.  
(In both the revision petitions)

Mr. B.R. Mahajan, Sr. Advocate with  
Mr. Prateek Mahajan, Advocate for respondent No.3  
(In CR No.1197 of 2017) and  
for respondent No.4 (In CR No.1198 of 2017)

Mr. Ashwani Verma, Advocate for respondent No.4.  
(In CR No.1197 of 2017)

Mr. Gurdarshan S. Sidhu, Advocate for respondent No.5  
(In CR No.1198 of 2017)

Mr. Tushar Gera, Advocate for respondent No.7  
(In CR No.1198 of 2017)

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**ANIL KSHETARPAL, J. (ORAL)**

Vide this common judgment, this Court would be deciding CR Nos.1197 and 1198 of 2017 as the common issue needs determination.

Learned counsel for the parties are also agreed that both the revision petitions can be disposed of by a common judgment.

The only issue which needs determination is whether the election petition which is not accompanied by necessary security deposit as required under Rule 77 of Haryana Municipal Election Rules, 1978 is liable to be rejected or an opportunity can be given to the petitioner to deposit the amount.

Rules 77 and 79 of Haryana Municipal Rules 1978, are extracted as under:-

**“77. Deposit to be made when petition is presented and return of deposit.** - (1) Every election petition shall be accompanied by a receipt from the Government treasury for two hundred and fifty rupees or Government Promissory Notes of equal value at the market rate of the day as security for all costs that may become payable by him or them.

(2) If a petitioner, by whom the deposit referred to in sub-rule (1) has been made, withdraws his election petition as provided in rule 82 and in any other case after final orders have been passed on the election petition the deposit shall, after deducting such amount as may be ordered to be paid as costs, charges and expenses be returned to the petitioner by whom it was made; and if such petitioner dies during the course of the enquiry into the election petition, any such deposit, made by him, shall after the amount of such costs as may be ordered to be paid have been deducted, be

*returned to his legal representatives.*

*(3) All applications for the refund of a deposit shall be made to the Tribunal who shall pass orders thereon in accordance with these rules.”*

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**79. Petition to be dismissed for non-compliance with rules.** - *If any of the provisions of sub-rule (1) of rule 75 or sub-rule (1) of rule 77 have not been complied with, the Tribunal shall pass an order, dismissing the election petition and such orders shall be final.”*

The aforesaid issue has already been decided by the Division Bench of this Court in the judgment cited as **Sugan Chand Saini Vs. Senior Sub Judge, Narnaul, 1996 PLJ 356**. Hon'ble Division Bench held that it is obligatory for the Tribunal to dismiss the petition once it is found that the mandatory pre-condition has not been complied with. Hon'ble Division Bench has relied upon two judgments passed by Hon'ble the Supreme Court in the case **Charan Lal Sahu Vs. Nand Kishore, AIR 1973 Supreme Court 2464** and **Aeltemesh Rein Vs. Chandulal Chandrakar, AIR 1981 Supreme Court 1199**.

On the other hand, learned counsel for the petitioner has submitted that the Single Bench of this Court had taken a different view in the judgment reported as **2011(2) RCR (Civil) 816, Smt. Bhajan Kaur and another Vs. Gurmej Kaur and another**.

This Court has carefully read the aforesaid judgment passed by the Single Bench. The issue involved in the aforesaid case was different. In one election petition, election of more than one Panch was challenged. The necessary deposit for filing the election petition was made. However, the

question was whether the deposit has to be more than one security deposit as the elections of more persons have been challenged. Still further, on reading of para 9 of the aforesaid judgment, it is clear that the learned Single Judge decided the matter as learned counsel for the respondents did not join the issue on this ground and stated that deficiency can be made good. Still further, the judgments passed by the Division Bench and Hon'ble the Supreme Court were not brought to the notice of the Single Bench.

In view thereof, this Court respectfully follows the judgment passed by the Division Bench (Supra).

Hence, both the revision petitions are dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

**16.05.2018**

*Pawan*

**(ANIL KSHETARPAL)  
JUDGE**

**Whether speaking/reasoned:-                      Yes/No**

**Whether reportable:-                                  Yes/No**