IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.18742 of 2026

Date of Decision: 27.10.2026

Kuldeep Chand .…….Petitioner

Versus

State of Himachal Pradesh & Ors. … Respondents

Coram:
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? [1] Yes.

For the Petitioner: Mr. Ashwani Kaundal, Advocate.

For the Respondents: Mr. Rajan Kahol, Additional Advocate General with Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General, for the respondents-State.

Sandeep Sharma, Judge(oral):

Being aggrieved and dissatisfied with order dated 02.04.2026 passed by Deputy Commissioner, Bilaspur, District Bilaspur, in appeal bearing No. 6/2025, upholding the order dated 28.08.2025 passed by Sub-Divisional Officer (Civil)-cum-Authorized Officer under H.P. Panchayati Raj Act, 1994 (hereinafter "***Act***"), in case No. 1/2025, titled ***Kuldeep Chand vs. Sarita Devi and Ors***., whereby election petition filed by the petitioner herein came to be dismissed, petitioner has approached this Court in the instant proceedings filed under Article 226 of the Constitution of India, praying therein to set aside orders dated 02.04.2026 and 28.08.2025

[1]*Whether the reporters of the local papers may be allowed to see the judgment?*

passed by Deputy Commissioner, Bilaspur, District Bilaspur, Himachal Pradesh and Sub-Divisional Officer (Civil)-cum-Authorized Officer, Nadaun, District Hamirpur, respectively.

2. Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Ashwani Kaundal, learned counsel for the petitioner, is that Deputy Commissioner, Bilaspur, District Bilaspur, Himachal Pradesh, while dismissing the appeal preferred by the petitioner, adopted a hyper-technical view because defects, if any, in the election petition were curable and in the event of grant of opportunity to cure defects, petitioner would have cured the same. However, since no opportunity was ever granted by the competent court of law to cure defects, election petition could not be dismissed on the ground of non-compliance with the provisions contained under Sections 163 to 165 of Act as well as H.P. Panchayati Raj Election Rules, 1994 (hereinafter "***Rules***").

3. Precisely, the facts of the case, as emerge from the pleadings as well as other material placed on record by the respective parties, are that petitioner, being aggrieved on account of election of respondent No. 5 to the post of Pradhan, Gram Panchayat Bara, Tehsil Nadaun, Himachal Pradesh, filed an election petition under Section 161(i) read with Section 122(1)(c)(ii) of the Act, 1994, in the

court of Sub-Divisional Officer (Civil), Nadaun, exercising the powers of Authorized Officer under the Himachal Pradesh Panchayati Raj Act, 1994, which came to be dismissed vide judgment dated 28.08.2025 (Annexure P-7) on the ground that petitioner neither deposited the prescribed security in terms of Section 163 of the Act in the prescribed manner nor signed and verified the pleadings. Besides above, competent authority also found that petition was not filed within the prescribed period of 30 days and no application under Section 5 of the Limitation Act ever came to be filed, praying therein for condonation of delay. Besides above, petitioner also failed to sign and verify the contents of the petition as well as annexures annexed therewith, which otherwise is mandatory in terms of Section 164(2) of the Act.

4. Being aggrieved and dissatisfied with the aforesaid judgment passed by Sub-Divisional Officer (Civil)-cum-Authorized Officer under H.P. Panchayati Raj Act, petitioner preferred an appeal under Section 181(i) of the Act in the court of learned Deputy Commissioner, Bilaspur, District Bilaspur, Himachal Pradesh, but the same was also dismissed vide judgment dated 02.04.2026. In the afore background, petitioner has approached this Court in the instant proceedings.

5. Having carefully perused provisions contained under Sections 163 and 164 of the Act and Rule 95 of the Rules, vis-à-vis reasoning assigned in the orders/judgments impugned in the instant proceedings, this Court finds no illegality or infirmity in the same and as such, no interference is called for. Though Mr. Ashwani Kaundal, learned counsel for the petitioner, attempted to argue that defects, which have been pointed out by the courts below in the election petition filed by the petitioner, were curable and the same could be cured in case petitioner was afforded an opportunity, but this Court is not impressed with the aforesaid submission of learned counsel for petitioner for the reason that once statute provides for filing an election petition in a particular manner and there is no provision in the Act or Rules, which permits the court/competent authority to permit the party concerned to rectify such mistake, no illegality can be said to have been committed by both the courts below, while passing orders impugned in the instant proceedings. At this stage, it would be apt to take note of the relevant provisions of the Act which specifically deal with filing of the election petition:

> *"**163. Presentation of petition.** (1) Any elector of a Panchayat may, on furnishing the prescribed security in the prescribed manner, present within thirty days of the publication of the result, on one or more of the grounds specified in sub-section (1) of section 175 to the authorised*

officer an election petition in writing against the election of any person under this Act:

(2) The election petition shall be deemed to have been presented to the authorised officer-

(a) when it is delivered to him-

(i) by the person making the petition; or

(ii) by a person authorized in writing in this behalf by the person making petition; or

***(b)** when it is sent by registered post and is delivered to the authorized officer or any other person empowered to receive it.*

***Section 164(1)(c) provides that** an Election Petition shall be signed by the Petitioner and Verified in the Manner Laid down in the Code of Civil Procedure. 1098 for the verification of pleadings.*

(2) any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

***Section 165 provides that** if the election petition is not furnished in the prescribed manner, or the petition is not presented within the period specified in section 163, the authorized officer shall dismiss the petition.*

***It is also appropriate to reproduce the Rule 95 of the H.P. Panchayati Raj (Election) Rules, 1994** which is also relevant in this matter*

***95. Security deposit to be made with the petition.** At the time of presentation of an election petition, the petitioner shall deposit a sum of Rs. 300/- as security money in the government Treasury or sub Treasury under the appropriate head of account in the name of Authorised Officer to whom the petition is presented or caused to be presented."*

6. Admittedly, in the case at hand, no security deposit was made by the petitioner along with election petition filed before the court below, which otherwise is mandatorily required under Section 163 of the Act, read with Rule 95 of the Rules. Similarly, election petition was not filed by the petitioner, rather same was filed by one Suram Chand, who was not authorized by the petitioner to institute the same in terms of Section 163(2) of the Act. It also emerges from the record that election petition and annexures annexed therewith were not duly signed and verified as required under Section 164(1)(c) and Section 164(2) of the Act. Similarly, defect of non-deposit of prescribed security amount attracts the provisions of Section 165 of the Act. Since petitioner failed to comply with mandatory provisions, as detailed hereinabove and there is no provision in the Act, which permits a party to cure such defect, no illegality can be said to have been committed by the courts below, while passing orders impugned in the instant proceedings and as such, this Court sees no reason to interfere with the same and the same are upheld. Present petition fails and is dismissed accordingly.

7. In the aforesaid terms, present petition is disposed of along with pending applications, if any.

(Sandeep Sharma),
Judge

October 27, 2026
(Sunil)