



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No.18316/2026

CNR: RJHC020881172026 | URN: CW / 37985U / 2026

Kanhaiya Lal Son Of Mukut Chand @ Mukat Chand, Aged About 55 Years, Resident Of Near Bus Stand, Ward No.32, Brijnagar, District Deeg.

-----Petitioner

Versus

1. State Election Commission, Rajasthan Through Its State Election Commissioner 2Nd Floor, Secretariat, Jaipur, Rajasthan 302005.
2. The Chief Election Officer And Secretary, State Election Commission, Rajasthan, 2Nd Floor, Secretariat, Jaipur, Rajasthan -302005.
3. Principal Secretary, Local Self Government Department, Government Of Rajasthan, Jaipur.
4. Director And Special Secretary, Local Self Government Department, Rajasthan, Jaipur.
5. District Election Officer/district Collector, District Collectorate, Deeg, Rajasthan.
6. Returning Officer, (Sdm, Brij Nagar), Nagar Palika, Brij Nagar, District Deeg.

-----Respondents

For Petitioner(s) : Mr. Mukesh Kumar Saini

JUSTICE ANOOP KUMAR DHAND

Order

09/09/2026

1. The instant writ petition has been preferred by the petitioner with the following prayer:-

"It is, therefore, most respectfully prayed that this writ petition may kindly be allowed and Your Lordships may graciously be pleased to quash and set aside impugned order dated 1.9.2026 issued by the



respondent No.3 and the respondents may kindly be directed to permit the petitioner to participate in the election of Ward No.35, Nagar Palika Brij Nagar, District Deeg under Nagar Palika Board scheduled in the month of August-September, 2026.

Any other appropriate order or direction which this Hon'ble Court deems fit and proper may kindly be passed in favour of the petitioner.

Cost of the writ petition may also be awarded to the petitioner."

2. By way of filing the instant writ petition, a challenge has been led to the impugned order dated 01.09.2026 passed by the Returning Officer by which the nomination paper of the petitioner for contesting the election for the post of Ward Member from Ward No.35, Municipal Board Brij Nagar, District Deeg has been rejected.

3. Learned counsel for the petitioner submits that the Returning Officer has rejected the nomination paper of the petitioner by giving reference to Section 24(iii) of the Rajasthan Municipalities Act, 2009 (for short, 'the Act of 2009') and disqualified him from contesting the election on the ground that the petitioner is under trial in the competent Court which has taken cognizance of the offence and framed the charges against him for the offence punishable with imprisonment for more than five years. Learned counsel further submits that this fact was not disclosed by the petitioner in his nomination paper that such case is lying pending against him and he is undergoing a trial in such criminal case, but inspite of above without providing any opportunity of hearing, his nomination has been rejected, which has violated the principles of natural justice. Hence, the aforesaid reason for rejection of nomination paper of the petitioner is not



tenable in the eyes of law and the impugned order/communication dated 01.09.2026 is liable to be quashed and set-aside.

4. Heard and considered the submissions made at the Bar and perused the material available on the record.

5. Article 243-ZG of the Constitution of India lays down that no election to any municipality shall be called in question except by an Election Petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of the State.

6. The issue involved in the instant petition is improper rejection of the nomination form of the petitioner by the Returning Officer. As per Section 31 of the Act of 2009, improper rejection or acceptance of nomination paper is a ground for declaring an election as void. As per the mandate contained under law, no election shall be called in question in any petition except by an election petition.

7. The Hon'ble Apex Court in the case of **N.P. Ponnuswami v. Returning Officer, Namakkal Constituency and Ors.** reported in **(1952) 1 SCC 94** has held that the term election is used to embrace the whole procedure of election and it is not confined only to the final result thereof, but rejection or acceptance of nomination form is also included. In this term, if it is a case of improper rejection of nomination paper amounts to continuing the part of the election procedure and process which can be called in question only by filing an election petition under Section 31 of the Act of 2009.

8. For ready reference the provisions contained under Section 31 of the Act of 2009 are re-produced as under:





"31. Election petition.- (1) The election of any person as a member of a Municipality may be questioned by an election petition filed within one month from the date of election before the District Judge having territorial jurisdiction over the municipal area on one or more of the following grounds, namely:-

(a) that on the date of election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under this Act, or

(b) that any corrupt practice specified in section 29 has been committed by a returned candidate or his election agent or by any other person, with the consent of a returned candidate or his election agent, or

(c) that any nomination has been improperly rejected, or

(d) that the result of the election, in so far as it concerns a returned candidate has been materially affected-

(i) by the improper acceptance of any nomination, or

(ii) by any corrupt practice committed in the interest of the returned candidate by a person other than that candidate or his election agent or a person acting with the consent of such candidate or election agent, or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(iv) by any non-compliance with the provisions of this Act or of any rules or orders made hereunder, or



(e) that in fact the petitioner or some other candidate received a majority of the valid votes, or
(f) that, but for the votes obtained by the returned candidate by corrupt practices, the petitioner or some other candidate would have obtained a majority of the valid votes.

(2) In hearing the election petition, the District Judge shall follow such procedure and exercise such powers as may be prescribed."

9. Legislature has placed improper rejection and improper acceptance of nomination on the same footing and these grounds are very much available under Section 31 of the Act of 2009 for declaring the election to be void. Hence, it is clear from the bare reading of the above provisions that the petitioner can file an election petition in terms of the provisions contained under Section 31 of the Act of 2009.

10. As per the statutory bar contained under Article 243-ZG of the Constitution of India, this Court does not have the jurisdiction to examine the grievance of the petitioner for improper rejection of his nomination paper.

11. On this Court alone, the instant writ petition stands disposed of, granting liberty to the petitioner to file an election petition in terms of the provisions contained under Section 31 of the Act of 2009.

12. The stay application and all pending applications, if any, also stand disposed of.

(ANOOP KUMAR DHAND),J