

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).9996-9997 OF 2017
(SLP(C) Nos. 36265-36266 of 2016)

RASHMI DIGAMBAR BAGAL . . . APPELLANT(S)

VERSUS

NARAYAN GOVINDRAO PATIL AND OTHERS . . . RESPONDENT(S)

O R D E R

1. Leave granted.
2. Heard learned counsel for the appellant-Election Petitioner. None has appeared on behalf of the respondents in spite of due service of notice.
3. The challenge in these appeals is to the order of the High Court dated 21.09.2016 by which the Election Petition filed by the appellant has been dismissed on the ground that the same is not in conformity with the mandatory requirements spelt by the provisions of Representation of People Act, 1951 (for short, the 'R.P. Act') and therefore is not maintainable in law.

4. Having perused the Election Petition filed by the appellant along with the annexures thereto, it appears to us that the short case of the appellant on which she had sought a trial is that out of the total number of 1565 Postal Ballots received, 776 ballots (+1 NOTA) were counted whereas the remaining i.e. 788 ballots were kept aside to be counted at a later point of time. However, as the counting of the other votes progressed and the margin between the elected candidate and the appellant became narrower, the postal ballots kept aside for being counted at a later point of time was taken out of the counting process and not counted at all or wrongly counted for extraneous reason. This according to the appellant was done with a view to favour the returned candidate. Accordingly, the appellant had sought a declaration of the invalidity of the election of the returned candidate on the ground that the 776 postal votes were not counted.

5. Though, the Election Petition filed by the appellant contained allegations of

corrupt practice, we would understand the case of the Election Petitioner to be confined to the aforesaid and not one of commission of corrupt practice within the meaning of Section 123 of the R.P.Act.

6. If the case of the Election Petitioner is to be understood in the above manner, the view taken by the High Court does not appear to be correct. All that was required to be done by the appellant under Section 82 of the R.P. Act is to bring on record a concise statement of material facts, duly verified in accordance with the provisions of the Code of Civil Procedure. A reading of the contents of the Election Petition would go to show that the Election Petitioner did comply with the said requirements. In any event if there is any lack of compliance, the same not going to the root of the matter, the High Court could have allowed an opportunity for rectification. The present case was certainly not a case for dismissal of the Election Petition at the threshold as has been done by the High Court.

We, therefore, set aside the order of the High Court and request the High Court to decide the Election Petition insofar as the issue identified by us herein above is concerned.

7. With the aforesaid observations and directions the appeals are allowed to the extent indicated above.

.....,J.
(RANJAN GOGOI)

.....,J.
(L. NAGESWARA RAO)

.....,J.
(NAVIN SINHA)

NEW DELHI
AUGUST 02, 2017

ITEM NO.1

COURT NO.4

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 36265-36266/2016

(Arising out of impugned final judgment and order dated 21-09-2016 in AN No. 5/2016 in EP No. 4/2014 and AN No. 11/2016 passed by the High Court of Bombay)

RASHMI DIGAMBAR BAGAL

Petitioner(s)

VERSUS

NARAYAN GOVINDRAO PATIL AND OTHERS

Respondent(s)

Date : 02-08-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s) Ms. Vibha Datta Makhija, Sr. Adv.
Mr. Dilip Annasaheb Taur, AOR
Mr. Amol V. Deshmukh, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are allowed of in terms of the
signed order.

(NEETU KHAJURIA)
COURT MASTER

(MADHU NARULA)
BRANCH OFFICER

(Signed order is placed on the file)