

(2016) 11 RAJ CK 0030

RAJASTHAN HIGH COURT (JAIPUR BENCH)

Case No: Civil Writ Petition No. 15643 of 2016 (With Stay Application No. 13922 of 2016)

Ved Prakash

APPELLANT

Vs

Member Singh

RESPONDENT

Date of Decision: Nov. 17, 2016

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 16 Rule 14

Citation: (2017) 1 WLN 94

Hon'ble Judges: Mr. Mohammad Rafiq, J.

Bench: Single Bench

Advocate: Mr. Rajneesh Gupta, Advocate, for the Petitioner

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Mr. Mohammad Rafiq, J. - Petitioner has filed this writ petition for setting aside the order dated 25.10.2016 passed by learned Senior Civil Judge, Weir, District Bharatpur, to the extent it disallows the application filed by petitioner under Order 16, Rule 14 read with Section 151 of the Civil Procedure Code for summoning returning officer to produce evidence.

2. The application was filed by the petitioner praying therein that looking to the facts of the case, the returning officer as well as Headmaster, who issued certificate in favour of Kshama Kumari D/o Raghupat Singh, be summoned as witness. Since applicant failed to implead the returning officer as party, therefore, in the above said circumstances only remedy available is to prefer an application under Order 16, Rule 14 read with Section 151 of the CPC so that witness may be come on record to the extent as to whether any application submitted in writing before the returning officer. Thereafter another application under Section 151 of the CPC informing about name of returning officer and his place of posting. Learned Tribunal, vide impugned order, partly allowed the application to the extent of summoning of

Headmaster to produce witness, however, dismissed the same to the extent of summoning of returning officer.

3. Having heard learned counsel for the petitioner and perused the material on record, this court does not find any error or illegality in the impugned order. Learned trial court has recorded that though the respondent no.1 in the election petition has taken the ground that the returning officer has wrongly rejected the votes voted in his favour and also wrongly counted the votes in favour of the respondent no.1, which were liable to be rejected, which have been denied by the petitioner in the reply thereto, but it is the respondent no.1 who has to prove the pleadings by producing his own evidence and the petitioner has not clarified as to for what purpose he wants to summon the returning officer. The petitioner has filed to satisfy the court below as to for what reason he wants to summon the returning officer and rightly rejected the application to that extent and I do not find any error or illegality therein.

4. The writ petition, being devoid of merit, is hereby dismissed. Stay application is also dismissed.