

(1967) 07 CAL CK 0017**Calcutta High Court****Case No:** Civil Rule No"s. 890 and 891 of 1964

Kanai Betal

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision: July 7, 1967**Acts Referred:**

- West Bengal Panchayat Act, 1973 - Section 27
- West Bengal Panchayat Rules, 1958 - Rule 22, 23, 24, 27, 27(6)

Citation: (1968) 2 ILR (Cal) 483**Hon'ble Judges:** D. Basu, J**Bench:** Single Bench**Advocate:** Arun Kumar Dutt and N.L. Pal, for the Appellant; N.C. Chakraborty and Dilip Kr. Banerjee, for the Respondent

Judgement

D. Basu, J.

In this case the Petitioner challenges the validity of the election of the Anchal Panchayat held on June 10, 1964, relating to Hazipur Anchal Panchayat at which he and opposite party No. 6, Gopal Chandra Roy, were rival candidates, and opposite party No. 6 was eventually elected by a margin of one vote. The Petitioner's first ground is that the election was not fair inasmuch as opposite party No. 6 physically detained two supporters of the Petitioner beyond the date of the election so that they could not vote in the Petitioner's favour. *Prima facie*, this is a question of fact and a ground which can be urged in an election petition under Rule 30 of the West Bengal Panchayat Rules, 1958.

2. Mr. Dutt on behalf of the Petitioner, however, urges that the remedy by way of election petition under Rule 30 is illusory inasmuch as it fixes a period of 30 days limitation for the bringing of an election petition in respect of the election to a number of offices such as a membership of Gram Panchayat or Anchal Panchayat as well as the Adhyaksha or Upadhyaksha of Gram Panchayat or Pradhan or

Upapradhan of an Anchal Panchayat. What has happened is that instead of making separate rules in respect of these different offices, Rule 30 has been made a comprehensive rule relating to all these different offices. This apparently leads to some anomaly, but the dates of declaration of the result of the offices in the Gram Panchayat and the Anchal Panchayat being different under Rules 22, 23, 24 and 27(6), it does not seem to me that a person who wants to challenge the election to any of these offices in the Gram Panchayat would be obstructed because of the same period of time being limited by Rule 30 in the manner urged by Mr. Dutt.

3. The other ground taken in this petition is the same as that in Civil Rule No. 890(W) of 1964, namely, Rule 27 being ultra vires Section 27 of the Act. Since I have given my reasons in full for rejecting that contention in Civil Rule No. 890 (W) of 1964, the decision made therein may be made a part of the judgment in the present Rule. Grounds 1 and 2 of the present petition have not been pressed.

4. The Rule is, accordingly, discharged but without any order as to costs.

5. As prayed for by Mr. Dutt the operation of this order will also remain stayed for a period of three weeks from this date.