

conferred with the powers of the Director of Panchayats, an appeal against his order lay under the Standing Orders dated May 10, 1988, to the Joint Secretary, Rural Development and Panchayats. The appellate order, Annexure P-4, was thus passed in the valid exercise of jurisdiction.

(6) The argument of the learned counsel that the Secretary to Government, Punjab, is also conferred the powers of the Director, and *a fortiori* the Joint Secretary has been conferred the powers of the Joint Director, and, therefore, an appeal could not lie, suffers from a basic fallacy, for an officer may be conferred with more than one powers but the point arises that he must at one point of time be aware of what powers he is exercising and whether he was competent to do so or not. Mr. P. Ram while disposing of the appeal was definitely conscious that he was exercising the powers of the Joint Secretary to Government, Punjab, Rural Development and Panchayats Department, and that he was sitting in appeal against an order passed by the Joint Director, Panchayats, exercising the powers of the Director, Panchayats. The appellate function of the Joint Secretary, to Government, Punjab, cannot be called a co-ordinate function with the Joint Director, Panchayats, on the supposition that the Joint Director also stood vested with the powers of the Director or Joint Director, Panchayats. What needs to be avoided is that a man cannot sit in appeal against this own order or that against an order of an officer co-ordinate in jurisdiction. We find nothing of the kind in this case, even closely scrutinising the mechanics of it.

(7) No other point has been urged.

(8) Finding no merit in the petition, we dismiss the petition *in limine*.

R. N. R.

Before M. M. Panchhi and Amarjeet Chaudhary, JJ.

RAVINDER,—Petitioner.

versus

DEPUTY COMMISSIONER, MOHINDERGARH and others,—
Respondents.

Civil Writ Petition No. 7408 of 1987

August 2, 1988.

*Haryana Municipal Election Rules, 1978—Rls. 75, 78 and 79—
Election petition presented beyond limitation—Deputy Commissioner
not finding sufficient grounds for condonation of delay—Deputy*

**Ravinder v. Deputy Commissioner, Mohindergarh and others
(M. M. Punchhi, J.)**

Commissioner not forwarding petition to State Government—Validity of such order.

Held, that the stress in sub-rule (1) of rule 75 of the Haryana Municipal Election Rules, 1978 is on presentation of the petition within the period of limitation. A petition which is not presented within the period of limitation is as good as a petition not in the hands of the Deputy Commissioner and if that is so, there is nothing for him to forward to the State Government. It is only a presented petition, which lacks particulars of the kind mentioned in sub-rule (1) of Rule 75, which would warrant to be sent to the State Government in case of any infirmity therein. No such occasion has arisen in the instant case. Thus the order of the Deputy Commissioner refusing to entertain petition of the petitioner on presentation was perfectly right. (Para 1)

Civil Writ Petition Under Articles 226 and 227 of the Constitution of India praying that :—

- (a) *an appropriate writ, order or direction may kindly be issued to quash the order Annexure P/3 and the respondents No. 1 and 2 further be directed to entertain and decided on merit—the election petition—Annexure P. 2.*
- (b) *the record of the Municipal Committee, be called for;*
- (c) *certified copies of Annexures P/2 and P/3 may kindly be dispensed with.*
- (d) *service of the respondents on advance notice be dispensed with;*
- (e) *writ petition be accepted with costs.*

R. A. Yadav, Advocate, for the Petitioner.

S. S. Ahlawat, Advocate, D.A.G., Haryana, for Respondents 1 and 2.

M. L. Saini, Advocate, for Respondent No. 3.

JUDGMENT

M. M. Punchhi, J. (Oral)

The petitioner in order to challenge a municipal election which took place on August 30, 1987, presented an election petition before the Deputy Commissioner on September 21, 1987. The Deputy Commissioner refused to accept the presentation on the ground that it

was barred by limitation, the same being beyond 14 days as prescribed under rule 75 of the Haryana Municipal Election Rules, 1978. The Deputy Commissioner under the proviso to sub-rule (1) of Rule 75 could extend the period of limitation not exceeding 30 days if there were, in his opinion, sufficient grounds for such extension. By virtue of the impugned order Annexure P-3 he opined that there were no sufficient grounds to extend the period of limitation simply because the petitioner had been busy in procuring certified copies of documents in the meantime. It transpires that the petitioner did not promptly apply for obtaining certified copies and rather made an application for the purpose on September 9, 1987, which were obtained on September 14, 1987. It is plain that the petitioner wasted 9 days before the presentation of the application for obtaining copies and after having obtained them wasted further seven days for presenting the election petition. The Deputy Commissioner, in these circumstances, refused to accept the presentation. The learned counsel for the petitioner says that the decision of rejection passed by the Deputy Commissioner Annexure P-3 violates Rules 78 and 79 inasmuch as the Deputy Commissioner was required to forward every election petition received under rule 75 to the State Government and in case the provisions of sub-rule (1) of Rule 75 have not been complied with the State Government shall pass an order dismissing the election petition and such order shall then be final. Here it is complained that the petitioner's belated presentation of the election petition was a violation of sub-rule (1) of rule 75 and the Deputy Commissioner was required to send the petition for dismissal by the State Government. Though the argument apparently seems attractive but on closer scrutiny does not stand to reason. The stress in sub-rule (1) of rule 75 is on presentation of the petition within the period of limitation. A petition which is not presented within the period of limitation is as good as a petition not in the hands of the Deputy Commissioner and if that is so, there is nothing for him to forward to the State Government. It is only a presented petition, which lacks particulars of the kind mentioned in sub-rule (1) of rule 75, which would warrant to be sent to the State Government in case of any infirmity therein. No such occasion has arisen in the instant case. We are, therefore, satisfied that the Deputy Commissioner refusing to entertain petition of the petitioner on presentation was perfectly right. For these reasons, this petition as also connected CWP No. 7409 of 1987, which is on identical facts, are dismissed *in limine*.

S.C.K.