



**The Mizoram Gazette**  
**EXTRA ORDINARY**  
**Published by Authority**

MR-NE/907/98

VOL. XXIX. Aizawl, Friday, 28. 1. 2000, Magha 8, S.E. 1921, Issue No. 15

**ELECTION COMMISSION OF INDIA**

Ashoka Road,  
New Delhi-110001.

Dated: 11th November, 1999

20 Kartika, 1921(Saka)

**NOTIFICATION**

No. 82/MIZ-HP(1/98)/99:- In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951) the Election Commission hereby publishes the judgement/order dated 4-5-1999 of the Gauhati High Court in Petition No. 1 of 1998.

(HERE PRINT THE JUDGEMENT/ORDER ATTACHED,

BY ORDER,

K.R. PRASAD,  
SECRETARY,  
ELECTION COMMISSION OF INDIA.

IN THE GAUHATI HIGH COURT

(The High Court of Assam, Nagaland, Meghalaya, Manipur, Mizoram, Tripura and Arunachal Pradesh)

**ELECTION PETITION NO. 01 OF 1998**

**J. Lalsangzuala,**  
**s/o V.Z. Biaka,**  
**resident of Mission Veng-M,**  
**Aizawl, Mizoram.**

**Election Petitioner**

**-Versus-**

- 1. Dr H. Lallungmuana,**  
**resident of Salem Veng, Aizawl, Mizoram.**
- 2. Mr P.L. Chhuma,**  
**resident of G-25 Chanmari, Aizawl, Mizoram.**
- 3. Dr R. Lalthangliana,**  
**resident of Kanan Veng, Aizawl, Mizoram.**
- 4. Mr. Lallianzuala,**  
**College Veng, Aizawl, Mizoram.**
- 5. Mr Zailiana,**  
**resident of Sihphir, Aizawl, Mizoram.**
- 6. The Returning Officer,**  
**Mizoram Parliamentary Constituency,**  
**PO & Dist. Aizawl, Mizoram.**

**Respondents**

**BEFORE**

**HON'BLE MR JUSTICE DM CHOWDHURY.**

**For the petitioner : Mr N Dutta,**  
**Mr SS Dey,**  
**Mr N Nath,**  
**Advocates.**

**For the respondents : Mr PN Choudhury, CGSC,**  
**Mr RP Sarma,**  
**Mr B Chakraborty,**  
**Mr AK Agarwal,**  
**Mr BC Patha,**  
**Mrs M Pathak,**  
**Advocates.**

**Date of hearing &**  
**Judgement & order : 4-5-99**

### JUDGEMENT AND ORDER (ORAL)

In this proceeding the election of the respondent No. 1 to the 12th Lok Sabha (The House of People) from No. 1 Mizoram (ST) Parliamentary Constituency is challenged in the following circumstances.

The General Election was held in the year 1998 in different parts of the country for the purpose of constituting the 12th Lok Sabha and accordingly, notifications were made under Section 14 of the Representation of the People Act, 1951. The Election Commission of India notified the Election schedule as follows:

4. 2. 1998 - Last date for making nominations.
5. 2. 1998 - Last date of scrutiny of nominations.
7. 2. 1998 - Last for withdrawal of candidature.
23. 2. 1998 - Date of poll.

Six persons including the petitioner and the respondent No. 1 contested in the said Election from No. 1 Mizoram (ST) Parliamentary constituency. The petitioner was the nominated candidate of the Indian National Congress Party whereas the respondent No. 1 contested the said election as an independent candidate. On completion of the Poll, counting of votes took place under the supervision and direction of the Returning Officer. On conclusion of the counting, the Returning Officer declared the result of the Election. The respondent No. 1 polled 106552 number of valid votes including 266 Postal ballots whereas the petitioner polled 106511 number of valid votes which include 101 Postal ballots in his favour. The respondent No. 1 was accordingly declared elected as a Member of Parliament from the said Constituency. Thus the difference of votes obtained between the Election petitioner and the respondent No. 1, the returned candidate, was 41 (fortyone).

The petitioner thereupon filed this Election petition calling in question the result of the Election so far as it concerned the respondent No. 1, the returned candidate, due to the improper reception of 83 number of Postal Ballot papers in favour of the respondent No. 1 which were void. The petitioner, amongst others, alleged that atleast eightythree number of such Postal Ballot papers, votes were not cast by the electors for whom those were supposedly issued and the same were illegally counted in favour of the respondent No. 1. The petitioner accordingly prayed for the following directions :

- (i) To declare the election of respondent No. 1 from No. 1 Mizoram (ST) Parliamentary Constituency to be illegal and void;
- (ii) To hold the election petitioner to have been duly elected from No. 1 Mizoram (ST) Parliamentary Constituency having received majority number of valid votes; and
- (iii) To award cost in favour of the election petitioner, and/or to pass such other order or orders as may be deemed fit and proper.

2. The respondents denied and disputed the claim of the petitioner and filed their written statement. In due course, issues were framed and as many as thirty witnesses were examined and cross-examined; that apart, ten affidavits were filed under Order IX Rule 1 CPC. The case was posted for recording of further evidence of Col. Ranbir Singh, who was present in the Court today when the matter came up for hearing. At this stage, Mr SS Dey, the learned counsel appearing on behalf of the petitioner, pointed out that the 12th Lok Sabha has already been election petition, which was essential designed for unsitting the respondent No. 1 as a Member of the Lok Sabha and also for making a declaration that the petitioner was/is the duly elected Member of the Lok Sabha, in view of the dissolution of the House of People has now become only an academic matter. Mr. RP Sarma, the learned counsel appearing on behalf of respondent No. 1, has also joined issues with Mr Dey, the learned counsel for the petitioner on the point.

3. I have already indicated the reliefs sought for by the petitioner. There is no allegations of corrupt practice in the election. Even if the allegations of the petitioner are accepted, there cannot be any question of giving a declaration in favour of the petitioner as a Member of the 12th Lok Sabha which has since discontinued to exist on dissolution and the controversy raised in this petition has almost came to an end. At any rate, there is no live issue as on today for adjudication by this Court; it has, therefore, become academic to consider as to whether the eighty-three number of Postal Ballots received by the respondent No. 1, were improperly received or not, as alleged. The adjudication of the case in either way will not affect the position of the parties. Event has taken its own course.

The Court normally is not to embark upon adjudication of a dispute which is of academic nature only. A Court of law is not to dissipate the invaluable time on a question which is no longer alive and surviving. The reliefs sought for in this petition, even if granted, will not provide any practical meaning. The outcome of this petition on adjudication, will not afford any practical result. A Court of law with high dockets can ill afford to fritter away its time in a futile exercise at the cost of public time and money.

4. I am fully aware of the fact that an Election Petition is Statutory in character and the Representation of the People Act, 1951 does not specifically provide for abatement of an Election proceeding in the event of dissolution of a House of Parliament.

But this is not a case of abatement; it is for the reason that the Court is not to embark upon a futile and ineffectual proceeding that the case must come to an end. The matter would have been different if the petition contained allegation of corrupt practice against the respondents, so much so that a finding of corrupt practice has serious ramifications. When a party is found to have indulged in corrupt practice, not only his election is liable to be declared void, but he would also incur electoral disqualification People Act. In view of the fact that the House of People has been dissolved during the pendency of this Election Petition, it will amount to a futile exercise of judicial power to adjudicate as to whether the result of the election in so far as it concerned the respondent No. 1 has been materially affected by improper

reception of any vote which is void or not, and to provide the consequential benefit by adjudicating the election petition on merits, The Election petition is accordingly dismissed with no order as to costs.

This order is passed in presence of the counsel for all the parties without any objection.

The petitioner is entitled to the refund of the Security Deposit in view of the facts situations of the case. However, Mr SS Dey, the learned counsel for the petitioner, has submitted that he has been instructed by Shri J Lalsangzuala, the petitioner, that the Security Deposit made by him be given to the Legal Aid Fund of the Gauhati High Court. The Statement of the learned counsel is recorded and in view of his statement. The Registry (Registrar General) of this Court is directed to transfer the amount of Security Deposit made by the petitioner to the legal Aid Fund of the Gauhati High Court, Aizawl Bench, and to send an acknowledgement thereof to Shri J Lalsangzuala.

The Election Petition accordingly stands disposed.