

SHRI ALL INDIA SHWETAMBER STHANAKWASI JAIN CONFERENCE,  
12, SHAHEED BHAGAT SINGH MARG, NEW DELHI  
RASHTRIYA CHUNAV SAMITI-ELECTION 2021-23

Bench:

Adv. D. D Khabia, Rashtriya Mukhya Chunav Adhikari  
CA Rajiv Jain, Rashtriya Sah Chunav Adhikari  
Adv. Ajit Chhallani, Rashtriya Sah Chunav Adhikari

Name of the Candidate	Rajesh Kumar M. Mutha Jain LM No. 08856
Nominated Post	Rashtriya Adhyaksh Zone I
Name of Complainant	Rajendra Prashad Kothari Jain LM No. 10421
Date of the decision	22-04-2021

Order

1. The candidate Rajesh Kumar M. Mutha Jain LM No. 08856 filed his nomination form no 010 for the post of Rashtriya Adhyaksh. A complaint is filed before Rashtriya Chunav Samiti by Rajendra Prashad Kothari Jain LM No. 10421, another candidate contesting for the post of Rashtriya Adhyaksh, challenging eligibility of Shri Rajesh Kumar M. Mutha Jain to contest the election for the post of Rashtriya Adhyaksh invoking rule 9(क)( ई) E6 at page 31 of Constitution of SAISSJC stating that Shri Rajesh Kumar M. Mutha Jain absented himself from three consecutive N. E. C. meetings and, therefore, his eligibility for the N. E. C. tenures of 2018-20 statutorily ceased to exist which was so claimed by him in his nomination form no, 010. The complaint was duly forwarded to Rajesh Kumar M. Mutha Jain. The complaint reached Rashtriya Chunav Samiti before 4.00 pm 19th April 2021.
2. The reply filed by Shri Rajesh Kumar M. Mutha Jain is placed on record and the matter was listed for hearing at 2.30 pm on 21st April 2021 to be held in virtual mode on zoom platform.
3. During the hearing, the complainant Shri Rajendra Prashad Kothari Jain, the candidate Shri Rajesh Kumar M. Mutha Jain and Shri Paras Modi Jain appeared for Shri All India Shwetambar Sthanakwasi Jain Conference and were duly heard. During the hearing the candidate requested for additional time for making further submissions which was allowed, and the submissions dated 21/04/2021 filed by Shri Rajesh Kumar M. Mutha Jain is placed on record. On being specifically asked the candidate provided copy of his Covid Positive report dated 08/02/2021.
4. We have heard the rival submissions, examined the office record and examined rule 9(क)( ई) E6 at page 31 of Constitution of SAISSJC and found that as per this rule if a N. E. C. member absents himself from consecutive three meetings of Rashriya Karyakarini Samiti then his N. E.C. membership and all consequent statutory rights arising therefrom automatically ceases

and he will not be able to claim N. E. C. membership or any constitutional rights available to him for that N. E. C. tenure.

5. We have examined the record of SAISSJC and found that during the tenure of 2018-2020 five N. E. C. meetings were held i.e. 24/02/2019, 12/09/2019, 13/02/2020, 22/09/2020 and 13/02/2021. The N. E. C. meeting of 13/02/2021 was held on zoom and all other meetings were held physically. We find that the candidate Shri Rajesh Kumar M. Mutha Jain attended the N. E. C. meeting held on 12/09/2019, in the meeting of 13/02/2020 he has send his leave of absence on Whatsapp to Rashtriya Adhyaksh and Mahamantri and on 08/02/2021 he was found Covid Positive and was not in a position to attend the meeting held on 13/02/2021. We further find that out of five two N. E. C. meetings dated 22/09/2020 and 13/02/2021 were held during Covid period of 15/03/2020 to 14/03/2021 as notified by the Hon'ble Supreme Court of India in its Suo moto writ vide order dated 08/03/2021 and in accordance with the mandate of the order of the Hon'ble Supreme Court no adverse conclusion can be drawn during Covid period. Therefore, in view of the aforesaid order of the Hon'ble Supreme Court and the fact that the candidate himself was found Covid Positive on 08/02/2021, no adverse inference can be drawn and provisions of rule 9(क)( ई) E6 at page 31 of Constitution of SAISSJC cannot be strictly enforced for the simple reasons of circumstances being beyond the control of the candidate.
6. In the result, the nomination papers no. 010 for the post of Rashtriya Adhyaksh filed by Shri Rajesh Kumar M. Mutha Jain, Bangalore is found valid and accepted and the complaint filed by Shri Rajendra Prashad Kothari Jain is dismissed.

For Rashtriya Chunav Samiti



Rajiv Jain

Rashtiya Sah Chunav Adhikari