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adopted. I am therefore of the opinion that section 7 (iv-A) would not apply to the case and that the court-fee paid is proper. I accordingly set aside the order of the learned District Judge and allow the revision petition.

G.R.

APPELLATE CIVIL.

Before Mr. Justice Mockett and Mr. Justice Lakshmana Rao.

V. RAMANNA SHETTY (RESPONDENT), PETITIONER,

v.

INSPECTOR OF LOCAL BOARDS, MADRAS, AND
ANOTHER (PETITIONERS), RESPONDENTS.*

1937,
January 21.

Madras Local Boards Act (XIV of 1920)—Rules with respect to decision of disputes as to validity of elections—R. 10 (b) of—"Election"—"Result of the election"—Distinction—Cl. (ii) of r. 10 (b)—Corrupt practice under—Supplying of petrol to private cars used for election of candidate, if—Corrupt practice—Election of candidate "induced" by—Use of motor bus and cars for a day for taking voters to the poll—Election of candidate, if "induced" by corrupt practice in case of—Validity of his election in case of.

Rule 10 (b) of the rules with regard to the validity of elections held under the Madras Local Boards Act, 1920, is directed to two totally different circumstances, namely, the election itself and the result of the election. The word "election" is very much wider than the words "the result of the election", and contemplates something more like the conduct of the election as differentiated from the purely isolated fact of the result.

The supplying of petrol to private cars used for the purpose of the election of a candidate comes under the head of a payment or promise of payment to any person whomsoever on account of the conveyance of an elector to or from any place for the purpose of recording his vote as defined in clause (ii) of rule 10

* Civil Miscellaneous Petition No. 4729 of 1936.

(b) of the Election Rules and amounts to corrupt practice under that clause.

Where it appeared that a twenty-two seater motor bus and cars were used by the successful candidate for the period of a day for taking voters to the poll contrary to the provisions of rule 10,

held that the election of the successful candidate must, especially in the case of a small constituency, be considered to have been induced by those corrupt practices and that his election was void on that ground.

PETITION praying that in the circumstances stated in the affidavit filed therewith the High Court will be pleased to issue a writ of *certiorari* calling for the papers in Original Petition No. 20 of 1935 on the file of the Election Commissioner of South Kanara and quash the order of the said Election Commissioner in the said original petition.

K. Rajah Ayyar and *B. Rajeeva Shetty* for petitioner.

N. Srinivasa Ayyangar for the Government Pleader (*K. S. Krishnaswami Ayyangar*) for first respondent.

B. Sitarama Rao and *K. Y. Adiga* for second respondent.

THE ORDER of the Court was delivered by MOCKETT J.—The petitioner was elected as a member of the District Board of South Kanara for the Kundapur Circle. His election was declared void by the Election Commissioner. He comes before us for a writ of *certiorari* to quash that order.

The facts are very simple. A large number of corrupt practices were alleged against the petitioner but he was absolved from all those allegations except under one main heading. Under the

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rules with regard to the validity of elections held under the Madras Local Boards Act, 1920, there is rule 10 which materially bears on the question before us. It is as follows :—

“ If, in the opinion of the Election Commissioner,

(a) the returned candidate, his agent or any other person with the connivance of such candidate or agent, has committed, or abetted the commission of any election offence falling under section 58 of the Act or under Chapter IX-A of the Indian Penal Code, or

(b) the election of the returned candidate has been procured or induced or the result of the election has been materially affected, by any of the following corrupt practices :—

(i) any election offence falling under section 58 of the Act or under Chapter IX-A of the Indian Penal Code when committed by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent ;

(ii) any payment or promise of payment to any person whomsoever on account of the conveyance of any elector to or from any place for the purpose of recording his vote ;

(iii) the hiring, employment, borrowing or using for the purposes of the election of any boat, vehicle or animal usually kept for letting on hire or for the conveyance of passengers by hire ;

. . . the election of the returned candidate shall be void.”

It was alleged that the petitioner was guilty of corrupt practices under both (ii) and (iii). Under (ii) it was alleged that he had supplied petrol to two private cars which were used for the purpose of his election and under (iii) that he had hired a twenty-two seater motor bus, and had used it for the purpose of conveying voters to the poll. The finding of the Election Commissioner with regard to that can be shortly summarised. With regard to the allegation under (ii), he said that the supplying of petrol to those cars under the circumstances alleged did not amount to corrupt practice under

clause (ii), but we take a different view with regard to that, and we consider that such a course of action will come under the head of a payment or promise of payment to any person whomsoever, etc., as defined in clause (ii) on account of the conveyance of an elector to or from any place. With regard to (iii), his finding was that the motor bus and cars were used during the election day for the purpose of taking voters to the poll, and he drew the inference that those voters might be taken to have voted for the petitioner who had supplied the cars. He also found that the same corrupt practices had been adopted by the respondent when he too had hired and used motor vehicles for the purpose of taking voters to the poll contrary to the provisions of rule 10. He held that the result of the election had not been materially affected by the corrupt practices alleged but that the election had been procured and induced by those practices and, on the latter ground, declared the election void. Now, it is most important to consider the exact wording of rule 10 (b). It will be observed that two circumstances are contemplated. With regard to the procuring or inducing, it is the election of the returned candidate that is in contemplation ; with regard to the material effect, it is the result of the election that is contemplated. On the grounds that both sides had indulged in these wrong practices and also having regard to the majority, the Commissioner held that the result had not been materially affected. With regard to the other aspect, he took the view that he must exclude from his consideration, in order to arrive at a decision, the fact of the wrongful use of vehicles by the respondent. The

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argument before us of Mr. Rajah Ayyar for the petitioner amounts to this, and it must amount to this, that if the result has not been materially affected, it is impossible to say that the election has been procured or induced. It is necessary to examine this rule, because it will be seen that two positions must be proved: first of all, the fact of the wrongful practice prohibited and secondly, the effect of procuring or inducing the election or the fact of the result being materially affected. We consider that, with regard to the result being materially affected, there was material on the record on which the Commissioner might arrive at the conclusion at which he did arrive, but we are equally clear that there was ample material on the record on which he could arrive at the finding that the election was "induced". It is quite clear that the rule contemplates a difference between the election and the result of the election. And it would seem that the word "election" is very much wider than the words "the result of the election", and contemplates something more like the conduct of the election as differentiated from the purely isolated fact of the result. Now, can it be doubted, especially in a small constituency like this, when a twenty-two seater motor bus and cars were used for the period of a day for taking voters to the poll, that the election of the successful candidate has not been procured or induced by these facts? No authorities have been cited to us which are of any assistance. We have therefore to construe this rule according to its meaning as it seems to us, and we have emphasised that the rule is directed to two totally different circumstances, namely, the election itself and the result

of the election. It was argued before the Commissioner that the proviso to rule 10 had some bearing on this question. That proviso however can only be used when the corrupt practice is committed by somebody other than the candidate himself. Therefore, the proviso is not material except that it is interesting to see that, even under the circumstances contemplated by the proviso, namely, the commission of a corrupt practice by an agent or some other person without the candidate's connivance, relief is only allowed when those corrupt practices are trivial, unimportant and of a limited character. There is no such provision in rule 10 (b) (i) to (iii). Unquestionably the finding here is that this corrupt practice was not of a limited character but was very much the opposite, owing to the circumstances we have referred to. The result is, in our opinion, one for satisfaction because it would be most undesirable that it should go forth from this Court that, if corrupt practices on both sides are proved, that should have the effect, as it were, of cancelling out each other and give a sort of unlimited licence to people to do all those things which they are expressly prohibited from doing under the rules relating to elections. The result is that this petition will be dismissed with costs of the second respondent which we fix at Rs. 100 which will be paid by the petitioner. It may be added that on the facts no possible question of jurisdiction can arise and for that reason also this petition must fail.

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