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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 20th November, 2019

+ W.P.(C) 5591/2016

ASHWINI KUMAR UPADHYAY Petitioner
Through: Petitioner in person

versus

UNION OF INDIA & ANR Respondents
Through: Ms. Monika Arora, CGSC with
Mr. Kushal Kumar Adv. for UOI

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGMENT

D.N. PATEL, Chief Justice (Oral)

1. This Public Interest Litigation has been preferred with the following prayers:

"a) Issue a direction or order or writ including writ in the nature of mandamus or such other writ, order or direction as may be necessary; to declare the Sections 8 and 9 of the Representation of the People Act 1951 unconstitutional and void as they restrict disqualification period up to 6 years only and allow convicted person to contest Parliament/Assembly Elections and thus are inconsistent with Article 14 of the Constitution of India;

b) Issue a direction or order or writ including writ in the nature of mandamus or such other writ, order or direction as may be necessary; directing the respondents to implement the Election Commission's Proposed Electoral Reform and Law Commission Report No-244 and 255, which is necessary for decriminalization and de-communalization of Politics;

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c) Issue such other writ; order or directions as may be necessary, directing the respondents to set Minimum Educational Qualification and Maximum Age Limit for contesting candidates in spirit of the Apex Court Judgment in Rajbala & Others Vs State of Haryana."

2. Petitioner appearing in person submits that prayers (a) and (b) are not pressed. It is further submitted by the party in person that this matter has been argued out only for prayer (c) which is for prescribing minimum qualification as well as for prescribing maximum age limit for contesting the elections of the Council of States (Section 3 of the Representation of the People Act, 1951), for contesting election of House of People (Section 4 of the representation of the People Act, 1951) as well as for contesting election for State Legislative Assemblies (Section 5 of the Representation of the People Act, 1951).

3. Having heard the counsel for both the sides and looking to the facts and circumstances of the case, it appears that this petitioner is in search of amendment to Sections 3, 4 and 5 of the Representation of the People Act, 1951 prescribing the qualifications for the membership.

4. Party in person has placed reliance upon the Law Commission of India's reports i.e. 244th report as well as 255th report. Looking to the facts and circumstances of the case, we see no reason to entertain this writ petition mainly for the following reasons:-

(i) Legislative amendments are required for prescribing minimum educational qualification and maximum age limit for contesting elections of the Council of States, House of People and State Legislative Assemblies under Sections 3, 4 and 5 as well as Section 6 for the Legislative Council;

(ii) We are not inclined to give any direction to the respondents for

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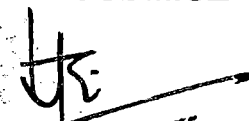
review to even give a direction to the Law Commission of India to submit a report on minimum educational qualification as well as for maximum age limit to contest the elections of the State Legislative Assemblies and of Parliament because already there are two reports:

- (a) 244th report of the Law commission of India; and
 - (b) 255th report of the Law Commission of India
- (v) It ought to be kept in mind that all those who are graduate may not be as wise as those who are not even in 10th standard. Such type of argument is easy to be made but such pre-conceived notions in the petitioner's mind are wrong, as not only knowledge but wisdom and experience are required to serve in the Parliament and/or State Assemblies, which may or may not come with graduation, therefore, it is for the Parliament to amend the law and not for this Court.
- (vi) Similarly, for prescribing maximum age limit, we see no justifiable reason to give any direction to the respondents to prescribe maximum age limit to contest the elections of Parliament or of the State Legislative Assemblies. Some persons are younger even at advance age. Some persons are older even at a younger age. All depends upon the vibrancy and enthusiastic approach of a person. Hence, we see no reason to give any direction to the respondents to prescribe a maximum age limit to contest the elections of the Parliament or of the State Legislative Assemblies.
- (vii) We have no reason to believe that the respondents are not taking care of the qualifications of their Members of Parliament

and the Members of the State Legislative Assemblies. Thus, it is left at the discretion of the Parliament whether to prescribe the minimum educational qualification or not for the Members of Parliament or not. Similarly, it is at discretion of the Parliament to prescribe the maximum age limit for their Members or not.

5. For the aforesaid facts and reasons, we see no reason to entertain this writ petition and the same is, therefore, dismissed.


CHIEF JUSTICE


C.HARISHANKAR, J

NOVEMBER 20, 2019
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