

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (C) NO. 2123 OF 2014

Satyanarayan Chandra, S/o Late Shri Ghasiya Ram Chandra, aged about 39 years, R/o Village & Post Bhothiya, Police Station & Tahsil - Jaijaipur, Civil & Revenue District - Janjgir-Champa (C.G.)

... Petitioner

Versus

State of Chhattisgarh, acting through Chief Secretary, Secretariat, Mahanadi Bhawan, New Raipur, Police Station & Post Office - Rakhi, District - Raipur (C.G.) PIN 492002

... Respondent

For Petitioner	:	Mr. K.A. Ansari, Senior Advocate, with Mr. Ramesh Naik, Advocate.
For Respondent-State	:	Mr. J.K. Gilda, Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per NAVIN SINHA, C.J.

26/11/2015

1. Heard Learned Senior Counsel for the Petitioner and Learned Advocate General for the State.
2. Learned Senior Counsel for the Petitioner assails Section 15 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (hereinafter called 'the Act') submitting that the prohibition from seeking election as an office bearer of a Panchayat by restricting it to one ward only was bad in law and there was no justification for it if a person could contest an election either for a Gram Panchayat, Janpad Panchayat or Zila Panchayat. Referring to Section 33 (7) of the Representation of Peoples Act, 1951, it was submitted that if a candidate in a Parliamentary election or in a State election is permitted to contest from more than one Constituency, there is no justification to debar the same in a Panchayat election. Section 15 is therefore liable to be struck down.

3. Learned Advocate General inter-alia submitted that there is no challenge to the vires of Section 15 as being contrary to any provision of the Constitution or in excess of the legislative power.

4. We have considered the submissions on behalf of the parties and are satisfied that the writ petition merits no interference.

5. The wisdom of the law maker in drafting Section 15 is not for the Court to decide so long as the legislation is intra-vires and not ultra-vires. When the challenge is made to a statutory provision, the pleadings have to be very specific with regard to how the statutory provision was ultra-vires and which is completely wanting in the present case. The reference to another legislation of a completely different kind, the Representation of Peoples Act, 1951, to invoke Article 14 of the Constitution is completely misplaced.

6. We need not deliberate much on the issue and may appropriately refer only to 2002 (4) SCC 34 (Ashutosh Gupta v. State of Rajasthan & Others) observing that :

“5. ... Where the challenge is made to a statutory provision being discriminatory, allegations in writ petition must be specific, clear and unambiguous. There must be proper pleadings and averments in the substantive petition before the question of denial of equal protection or infringement of fundamental right can be decided. There is always a presumption in favour of the constitutionality of enactment and the burden is upon him who attacks it to show that there has been a clear transgression of the constitutional principles. The presumption of constitutionality stems from the wide power of classification which the legislature must, of necessity possess in making laws operating differently as regards different groups of persons in order to give effect to policies. It must be presumed that the legislature understands and correctly appreciates the need of its own people, that its laws are directed to problems made manifest by experience. The claim of equal protection under Article 14, therefore, is examined with the aforesaid presumption that the State Acts are reasonable and justified. If we examine the challenge to the impugned provision from the aforesaid standpoint, we have no hesitation to hold that the appellants have utterly failed to establish any material from which grievances about the discrimination alleged can be said to have been made.”

7. The question of invoking Article 14 with regard to the right to contest elections, a statutory right, relying upon two different laws, the Representation of Peoples Act dealing with elections to the Parliament and State legislature by putting it at par with contesting elections to a post in the Panchayat, under the Act simply does not arise.

8. The writ petition is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge