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

+ **W.P.(C) 1441/2017**

M. NAGARAJAN

..... Petitioner

Through: Mr. A. Maitri, Advocate with
Ms. Radhika Chander Shekhar and Mr. Rattan Lal
Goel, Advocates.

versus

STATE ELECTION COMMISSION & ORS. Respondents

Through: Mr. Sumeet Pushkarna, SC with
Mr. Siddhartha Nagpal, Advocate for R-1
Mr. Sanjay Dewan with Ms. Palak Rohmetra,
Advocates for R-2 and R-3.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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27.03.2017

1. Mr. Maitri, learned counsel for the petitioner states that having regard to the view expressed by the Division Bench in a recent judgment dated 23.3.2017 in WP(C) No.1291/2017 and connected writ petitions on the aspect of delimitation, he does not wish to press the second relief prayed for in the present petition. This leaves the relief at prayer (a), which is for issuance of directions to the respondent No.1/SEC to consider the petitioner's objection dated 21.9.2016 for the Pushp Vihar Ward, in accordance with Section 9(1) (a) and Section 9(2) of the Delimitation Act, 2002.
2. Mr. Pushkarna, learned counsel for the respondent No/1SEC submits

that in view of the fact that Pushp Vihar Ward has been reserved for 'SC/Women' category, the petitioner cannot even contest from the said ward and therefore, his argument that the public will face difficulty in crossing the busy BRT road, if Pushp Vihar is removed from the ward, loses significance.

3. It is further stated that even on merits, the present petition is not maintainable for the reason that the representation of the petitioner was duly considered on merits by the respondent No.1/SEC and rejected on the ground that the population in the ward in question is in balance.

4. In any case, it is a settled position of law that once the election process has commenced, the courts must refrain from exercising the discretionary power vested in them in Article 226 of the Constitution of India, in view of the bar placed in the Article 243 (ZG) of the Constitution of India, which is in *pari materia* with Article 329 of the Constitution of India.

5. In view of the aforesaid position, this court declines to entertain the present petition at this belated stage, when the notification declaring the elections to all the wards in all the three Municipal Corporations in Delhi has already been issued by the respondent No.1/SEC.

6. The petition is accordingly disposed of.

HIMA KOHLI, J

MARCH 27, 2017

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