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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9330/2017**
TUSHAR GIRI

..... Petitioner
Through Mr. Sahil Bhalaik and Mr. Uddyam
Mukherjee, Advs.

versus

ELECTION COMMISSION OF INDIA.

..... Respondent
Through None.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **25.10.2017**

1 The petitioner is a resident of Himachal Pradesh and a final year law student at Symbiosis Law College, Pune. He is aggrieved by the arbitrary action of the Election Commission of India/respondent which as per him has thrown the hill state into disarray and has restricted its governance for a considerable period of time. Submission is that the election schedule of the Himachal Pradesh General Assembly as chalked out by the respondent shows that the polling is to be held on 09.11.2017. The result will be declared after 38 days i.e. on 18.12.2017. During this period of time, the model code of conduct will prevail and a caretaker Government will prevail which would be extremely prejudicial to the interest of the citizens of that state including the petitioner. This act of the respondent has been challenged.

2 At the outset, this Court is of the view that this petition is not maintainable in the present form. A query has been put to the learned counsel for the petitioner as to whether he has filed any representation before the Election Commission. His answer is in the negative. Admittedly no such representation has been made before the respondent. Present petition also appears to be more in the nature of Public Interest Litigation and this Court is not dealing with Public Interest Litigation. This Court is thus of the view that the present petition is not maintainable.

3 Learned counsel for the petitioner places reliance upon a judgment of the Apex Court reported as (2002) 8 SCC 237 In the matter of Special Reference No.1 of 2002 (Gujarat Assembly Election Matter) with particular reference to paras 105 & 106. Submission is that Court can well interfere with the act of the Election Commission if the Court is of the view that the decision of the Election Commission is neither just and nor reasonable. This Court has noted the ratio of the aforementioned judgment. The context in which those paragraphs have been penned down by the Apex Court related to the postponement of an election which as per the finding returned by the Apex Court was for un-reasonable reasons. Present case is admittedly not a case of postponement of an election. The election has been scheduled and the date of result has also been ordained. The only grievance of the petitioner being that this result which is to be declared after 38 days is a long stretch. This Court notes that the state of Himachal Pradesh has several districts and the election which is to

be conducted in the month of November is in the winter months. Some areas of Himachal Pradesh may be snow-ridden at that time. Had the petitioner made a representation before the Election Commission, he might have obtained an answer on such lines or what was in the mind of the Election Commission to declare the result 38 days later. He has not bothered to do so. He is approaching this Court directly with absolutely nothing on record to show that the act of the respondent is either un-reasonable, unfair or arbitrary.

4 This Court is not inclined to entertain this petition. This petition is nothing but an abuse of the process of the Court. It is dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

OCTOBER 25, 2017

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