

\$~40

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 21.08.2018

+

W.P.(C) 8751/2018

BALDEV KRISHAN

..... Petitioner

Through: Petitioner in person

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Kirtiman Singh, CGSC for R-1
Mr. P.R. Chopra, Adv. for R-2

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

J U D G M E N T

RAJENDRA MENON, CJ (ORAL):

1. Petitioner, who appears in person, has filed this public interest litigation making the following prayers:

“1. That suitable writs, directions, orders of appropriate nature may please be issued to the respondents to consider the view being expressed by the petitioner through the present Public Interest Litigation.

2. That suitable directions may also please be given to the respondents to fix a minimum percentage of votes to be declared elected in an election from amongst the contesting candidates by mooted a proposal for necessary amendment in the relevant statutes on the subject so that a proper representation of people may be incorporated.

3. *Such other or further orders as this Hon'ble Court may deem fit and proper may also please be passed in the interest of the General Public."*

2. It is the case of the petitioner that Government or the Election Commission of India is not taking action for amendment of the representation of the People Act, 1951 and putting into place provisions for ensuring that a person who does not receive a minimum percentage of votes is not declared elected. Seeking amendment to the statutory Act and Rules to give effect to prayer No.2 as indicated hereinabove this writ petition has been filed in public interest under Article 226 of the Constitution. It is the case of the petitioner that the lacuna in the system of election in not prescribing a minimum number of votes results in unwanted and ineligible candidates being elected. It is contended that this is detrimental to the interest of democracy and violates the right to a citizen to have a free and fair election. Seeking appropriate amendments to the statute, the writ petition has been filed with the prayers as indicated hereinabove.

3. Having heard the petitioner who appears in person and on consideration of the submissions made, we are of the considered view that the issue raised by the petitioner is beyond the jurisdiction available to this Court in the matter of issuing a Mandamus under Article 226 of the Constitution. The issue pertains to laying down policies for conduct of election, amendment to the laws governing conduct of election, and, therefore, it is for the Legislature/Parliament to dwell into the question canvassed by the petitioner and if required make suitable amendment to the law in question.

4. We are of the considered view that the issue raised by the petitioner is the question which cannot be considered by us and it is for the petitioner to take up the issue with the competent executive or legislative authorities and seek ventilating of his grievance. Accordingly, finding no ground to make indulgence into the matter, we dispose of the writ petition with liberty to the petitioner as indicated hereinabove.

CHIEF JUSTICE

V. KAMESWAR RAO, J

AUGUST 21, 2018

ns



सत्यमेव जयते