IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No.6127 of 2020

Decided on: 31st December, 2020

Nagender Singh Negi

.....Petitioner

Versus

State of H.P. and others .....Respondents

Coram

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge

The Hon'ble Ms. Justice Jyotsna Rewal Dua, Judge

[1] *Whether approved for reporting?*

For the petitioner:	Mr. Neel Kamal Sharma, Advocate.
For the respondents:	Mr. Ashok Sharma, Advocate General with Mr. Vinod Thakur, Mr. Vikas Rathore & Mr. Shiv Pal Manhans, Additional Advocates General and Ms. Seema Sharma, Mr. Bhupinder Thakur & Mr. Yudhvir Singh Thakur, Deputy Advocates General, for respondents No.1 to 3. Mr. Ajeet Singh Saklani, Advocate, for respondent No.4. **(Through Video Conferencing)**

Jyotsna Rewal Dua, Judge

Instant writ petition has been filed for the following substantive prayers:-

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[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

"(i) That the notification dated 18.12.2020 as contained in Annexure P-2 issued by respondent No.3 may kindly be quashed and set aside.

(ii) That the respondents may kindly be directed to keep the post of Zila Parishad Member from Baldwara constituency/ward un-reserved and to rotate the roster of reservation in various Zila Parishad Wards/Constituencies of District Mandi uniformly by way of reserving the post of Zila Parishad Member where the same has been kept un-reserved for last 2-3 terms."

2. It has been submitted on behalf of the petitioner that the post of Zila Parishad Ward Member in Baldwara, Tehsil Sarkaghat, District Mandi, was reserved for Women belonging to Unreserved Category in 2010 elections, for Women belonging to Scheduled Category in 2015 elections and now in ensuing 2020-21 elections to Panchayati Raj Institutions, it has been reserved for Women belonging to Other Backward Classes (OBC) Category vide notification dated 18.12.2020. Learned counsel for the petitioner urged that since the post in question has never been kept open for General Category persons, therefore, in the ensuing elections, it is required to be kept for General Category persons. He further submitted that Baldwara area even otherwise has no population of persons belonging to OBC category. Therefore, reserving the post for OBC category is not in consonance with the provisions of Act and rules framed thereunder.

3. Learned Advocate General submitted that roster for reservation to the post of Zila Parishad Ward Member for 2020-21 elections in respect of District Mandi has been worked out according to the census population of 2011 and after rotating the roster from its implementation since 2010 in accordance with the provisions of relevant Statutes and rules framed thereunder, the post for the area in question has fallen for OBC category and has accordingly been reserved as such. Learned counsel for the petitioner could not substantiate his assertion that the area in question was required to be kept open for the persons belonging to General category. He also could not prove his vague and bald allegations made in the writ petition about the reservation roster having been wrongly applied and rotated by the respondents-State.

4. In the written instructions, it has been clearly indicated that in the area in question, the proportion of percentage of population belonging to OBC category as per 2011 census was 10.93% with 51.77% women therein. Since the percentage of population of OBC category is above than the minimum limit of 5% prescribed under the H.P.

Panchayati Raj Act and the Rules framed thereunder, therefore, there was no embargo in reserving the post of Zila Parishad Ward Member for the area in question for Women belonging to OBC Category in accordance with the election reservation roster. Hence, there is no merit in the writ petition and the same is accordingly dismissed alongwith pending miscellaneous application(s), if any.

(Tarlok Singh Chauhan)
Judge

(Jyotsna Rewal Dua)
Judge

December 31, 2020
(Mukesh)