IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. 6393 of 2020

Decided on : 31.12.2020

Karam Chand

...Petitioner

Versus

State of H.P. and others

...Respondents

Coram
Hon'ble Mr. Justice Sureshwar Thakur, Judge.
Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? Yes

For the petitioner : **Mr. Kulbhushan Khajuria, Advocate.**

For the respondents : **Mr. J.S. Guleria and Mr. Vikrant Chandel, Dy AGs.**

Sureshwar Thakur, Judge (oral)

Since the writ petitioner intends to contest, the forthcoming elections to the post of Pradhan of the Panchayat concerned, thereupon, Annexure P-6, does imminently encumber him with an apposite statutory disqualification. Consequently, through the extant writ petition, he makes an espousal, before this Court, that, the operation, of, Annexure P-6, be stayed.

2. However, the writ petitioner, had earlier also motioned this Court, through his instituting CWP, bearing No. 3683 of 2020, whereon a decision, was made, on the hereinafter extracted terms:

> "Heard. The extant writ petition is disposed of, with, a direction to the respondents concerned, to, within three weeks from today, make a decision on Annexure P-4, in accordance with law, after affording an opportunity of personal hearing to the petitioner. All pending applications also stand disposed of."

3. The learned counsel appearing for the contesting litigants, fairly concede before this Court, that the authority concerned, has not, yet meted a decision, on Annexure P-4. Nonetheless, though issuance, of, Annexure P-4, has occurred, prior to the institution, of, the afore writ petition, before this Court, yet, when the writ petitioner, is, not the addressee thereof, and, also when upon believing, the, petitioners' counsel, that, the petitioner, is, not addressee, of, the apposite communication, and, rather his acquiring information, qua its making after, the institution, of, the afore CWP, (i)

whereupon(s), therethrough, he may escape, the barring rigor, of, the mandate, of, Order 2 Rule 2 CPC, rather enjoining him, to, include all cause(s) of action, accruing, in contemporaniety, vis-à-vis, the institution of the afore prior hereto writ petition, and, which now stand engrafted in the extant writ petition. (ii) Dehors, the afore, yet this Court deems it fit to rather, direct the statutory authority concerned, to, expeditiously, within three days, make a decision, upon Annexure P-4, and, also directs it to expeditiously, make a decision, with respect to the prima-facie, statutory prohibition, anchored upon Annexure P-6, working or not hence against the petitioner, and/or his family members, from his/theirs' contesting the forthcoming elections, to the post of Pradhan of the Gram Panchayat concerned, rather than this Court making any interference therewith.

3. The imperative reason, for, the making, of, the afore drawn direction, emanates from earlier this Court neither been asked nor obviously it restraining, the, respondents concerned, from, making further processes, in, pursuance, to, the making, of, Annexure P-4, Annexure whereof, is, awaiting any adjudication being

made thereon. Moreover, with this Court, staying the operation, of, Annexure P-6, would sequel an untenable fait *accompli*, becoming presented before, the, authority seized with Annexure P-4, whereupon, it would become precluded, to, make an objective, and, independent application, of, mind, vis-à-vis, legal worth thereof, and, of incidental thereto Annexure P-6.

4. In view of this, the instant writ petition is disposed of. Also, the pending application(s), if any, are also disposed of. No costs.

(Sureshwar Thakur)
Judge

(Sandeep Sharma)
Judge

31.12.2020
Kalpana