

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 8197 of 2019 (O&M)

Date of Decision: 16th September, 2020

Veeran Rani and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

**CORAM: JUSTICE S.MURALIDHAR
JUSTICE AVNEESH JHINGAN**

Present: Mr. Amit Jhanji, Advocate for the petitioners.

Mr. Ankur Mittal, Addl. Advocate General, Haryana.

Mr. Rajesh K. Sheoran, Advocate for respondent No. 6.

Avneesh Jhingan, J.

1. Five elected members of Municipal Committee, Jakhal Mandi (Committee) have filed the petition for setting aside election of President and Vice President of the Committee and further for quashing of notification dated 22nd February, 2019, notifying Smt. Seema Rani as President of the Committee.

2. The elections of the Committee were completed on 16th December, 2018 and names of elected members were declared on 19th December, 2018. There are 13 elected members and two ex-officio members in the Committee. The names of the elected members were notified on 27th December, 2018. The Sub Divisional Officer (Civil), Ratia issued notice for convening the first meeting on 25th January, 2019 at 3.00 PM for administration of oath and election to the posts of President and Vice

President. The convenor was not available hence the meeting was postponed.

Thereafter on 31st January, 2019, Sub Divisional Officer, Tohana issued notice for convening meeting on 2nd February, 2019 for administration of oath and election to the posts of President and Vice President. On 2nd February, 2019, the members present were administered oath and thereafter election was held. Respondents No. 7 and 8 were elected as President and Vice President respectively. Aggrieved of the election, the present petition is filed.

3. In the prayer, elections held are said to be violative of Sections 18, 27 and 29 of the Haryana Municipal Act, 1973 (Act) and Rules 70 and 71 of the Haryana Municipal Election Rules, 1978 (Rules). In fact the pin pointed controversy raised is that election held, are not in consonance with the procedure laid down in Rule 70 of the Rules, as amended on 24th January, 1995.

4. The un-amended and amended Rule 70 of the Rules are quoted below:

Unamended Rule 70 of the Rules	Amended Rule 70 of the Rules
(1) The Deputy Commissioner or any gazetted officer appointed by him in this behalf shall, within a period of fourteen days of the publication of the notification of the names of the members elected to a committee convene the first meeting of the newly-constituted committee at forty-eight hours notice to be delivered at their ordinary place of residence. The notice shall clearly stated that the oath of allegiance will be administered to the members present, and that the election of President and Vice-President shall be held in the meeting. The convener shall administer the oaths to the members and shall preside over the meeting till the election of the President and the Vice-President. Such meeting shall be deemed to be validly convened meeting of the committee. Notwithstanding anything contained in any bye-laws, made under the provisions of section 31 of the Act, the administration of the oath of allegiance and the election of the President and Vice President shall be	(1) (a) Unless the Government otherwise directs, the Deputy Commissioner or any gazetted officer appointed by him in this behalf shall within thirty days, after the publication of the notification of the names of the members elected to a committee, convene the first meeting of the newly constituted committee at forty-eight hours notice to be delivered at their ordinary place of residence to administer an oath of allegiance under section 24 of the Act. The notice shall clearly state that the oath of allegiance will be administered to the members present. (b) The Deputy Commissioner or any gazetted officer appointed by him in this behalf shall, within a period of thirty days of the meeting referred to in

recorded as part of the proceedings in the minutes of the meeting. (2) The oath of allegiance shall be adminstered to a member who was not present at the meeting convened under sub-rule (1) or to a member elected or nominated to fill a casual vacancy subsequently by the Chairman of the meeting at which such member appears to take such oath. [(3) Terms of office of the President shall be for five years or the residue of the term of his office as a member whichever is less. The President shall be elected from amongst the members of the Committee. (4) The offices of the President in the Municipalities shall be reserved for the Scheduled Castes and Women: Provided that the number of offices of the Presidents reserved for the Scheduled Castes in the State shall bear as may be the same proportion to the total number of such office in the municipalities as the population of the Scheduled Castes in the State bears to the total population of the State; Provided further that not less that one third of the total number of offices of Presidents in the Municipalities shall be reserved for Women. The reservation of seats for women shall rotate to different municipalities, except those reserved for Scheduled Castes, by draw of lots, by a committee consisting of the Director, Local Bodies and two other officers not below the rank of Deputy Secretary: Provided further that the number of offices of President under this sub-rule shall rotate to different municipalities firstly having the largest maximum population of the Scheduled Castes and secondly having the next largest maximum population of such castes and so on. The reservation of seats for Scheduled Caste Women shall be determined by draw of lots by a	clause (a), convene a meeting of the members of the committee at forty-eight hours notice to be delivered at their ordinary place of residence. The notice shall clearly state that the oath of allegiance will be administered to the left over members of the committee and that the election of the President and Vice- President shall be held in the meeting. The convener shall firstly administer the oath to the left over members and thereafter shall preside over the meeting till the election of the President and Vice-President is over: Provided that such meeting shall be deemed to be validly convened meeting of the committee. Notwithstanding anything contained in any bye-laws made under the provisions of section 31 of the Act, the administration of oath of allegiance and the election of the President and Vice-President shall be recorded as part of the proceedings in the minutes of the “meetings.” (2) The oath of allegiance shall be adminstered to a member who was not present at the meeting convened under sub-rule (1) or to a member elected or nominated to fill a casual vacancy subsequently by the Chairman of the meeting at which such member appears to take such oath. (3) Terms of office of the President shall be for five years or the residue of the term of his office as a member whichever is less. The President shall be elected from amongst the members of the Committee. (4) The offices of the President in the Municipalities shall be reserved for the Scheduled Castes and Women: Provided that the number of offices of
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committee consisting of Director, Local Bodies, and two other officers not below the rank of Deputy Secretary.]	the Presidents reserved for the Scheduled Castes in the State shall bear as may be the same proportion to the total number of such office in the municipalities as the population of the Scheduled Castes in the State bears to the total population of the State; Provided further that not less than one third of the total number of offices of Presidents in the Municipalities shall be reserved for Women. The reservation of seats for women shall rotate to different municipalities, except those reserved for Scheduled Castes, by draw of lots, by a committee consisting of the Director, Local Bodies and two other officers not below the rank of Deputy Secretary: Provided further that the number of offices of President under this sub-rule shall rotate to different municipalities firstly having the largest maximum population of the Scheduled Castes and secondly having the next largest maximum population of such castes and so on. The reservation of seats for Scheduled Caste Women shall be determined by draw of lots by a committee consisting of Director, Local Bodies, and two other officers not below the rank of Deputy Secretary.
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5. It would be pertinent to note here that there is no dispute raised with regard to the quorum of the meeting and the fact that President and Vice President were elected unanimously by 9 members present on 2nd February, 2019.

6. Learned counsel for the petitioners argued that as per Rule 70(1)(a) of the Rules, the Deputy Commissioner or the Gazetted Officer appointed by him, within thirty days after the publication of the notification of the names of the elected members and after giving forty-eight hours notice, has to convene the first meeting to administer oath to the members present. Under clause (b) of Rule 70(1), another

meeting is to be convened within a period of 30 days of the meeting convened under clause (a), after giving forty-eight hours notice, clearly stating that the oath will be administered to the left over members and election of President and Vice President shall be held. Whereas in the present case, the first meeting was not held as convenor was not present, thereafter in the meeting held on 2nd February, 2019 in the absence of six members after administering oath to the present members, the election was held.

7. The official respondents have filed reply and additional affidavit raising issue of maintainability of petition and justifying the election. It is pleaded that election was held as per amended Rule 70 of the Rules, as first meeting was fixed for 25th January, 2019 and the second meeting on 2nd February, 2019.

8. In the facts of the present case, no case is made out for interference under Article 226 of Constitution of India.

9. The total members in the Committee were fifteen, nine members were present in the meeting held on 2nd February, 2019, they unanimously elected the President and Vice President. For sake of argument and taking the case of the petitioners at the highest, still the numbers were in favour of the elected President and Vice President. The presence/ participation of the petitioners would have made no difference to the result of the election. It is not the case of the petitioners that they were not served with notice of meeting. Further it is not disputed that the notice was clear and unambiguous that the meeting was fixed for administering oath and for election. Moreover, the President and Vice President have already held the office for more than 1 and ½ years.

10. Leaving the legal issue raised in the writ petition open, the election of President and Vice President is upheld.

11. The writ petition is dismissed.

(AVNEESH JHINGAN)
JUDGE

(S.MURALIDHAR)
JUDGE

16th September, 2020
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Whether speaking/reasoned:	Yes
Whether Reportable:	Yes