

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.109

CWP-8557-2021(O&M)
Date of Decision : 20.4.2021

Anjanjeet Kaur

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present : Mr.Parampreet S. Bajwa, Advocate
for the petitioner.

AJAY TEWARI, J. (ORAL)

1. This petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing memo No. 955-677 dated 1.4.2021 (Annexure P-5) issued by respondent No.2 whereby the post of President of Municipal council Khanna has been reserved for the members of scheduled castes that too after the completion of voting process of the election of municipal councillors.

2. Counsel for the petitioner has relied upon the decision of this Court in ***CWP-14959-2016*** titled as ***Paramjit Singh and others vs. State of Punjab and others.*** The relevant paragraph of this judgment is paragraph No.18 which is reproduced herein below:-

“(18) There is, however, some merit in the submission of learned counsel for the petitioners that the State Government should not alter Schedule III of 1994 Rules after holding the elections of Municipalities. It is well

advisable that the inclusion or exclusion from Class-I or any other category of Municipalities should take place before the elections are held so that it comes well in advance in public domain as which of the office of President of a Municipality shall be reserved and for which category. While we are not inclined to issue any positive direction in this regard, we leave it to the State Government to examine this aspect of the matter and take an appropriate decision before the next elections. The suggested recourse will also be in conformity with the dictum in People's Union for Civil Liberties & Anr. vs. Union of India & Anr. (2013) 10 SCC 1 where the Hon'ble Supreme Court held that decision taken by a voter after verifying the credentials of the candidate either to vote or not is a form of expression under Article 19(1)(a) of the Constitution and that denial of such effective right would amount to breach of Fundamental Right."

3. On a perusal of Section 8A of the Punjab Municipal Act, 1911 and Rule 5 of The Determination of the Number of Elected members and Reservation of Offices of Presidents of Municipalities Rules, 1994, it is clear that the exercise of identifying the municipalities in which the posts have to be reserved is a mathematical exercise which leaves no discretion in anybody and this fact has been accepted by the learned counsel for the petitioner. In fact, he has not challenged the action of declaring that in these elections the posts of Presidents in Khanna, Kharar and Kotkapura would have to be reserved for different categories and, as mentioned above his only grievance is that this declaration should have come before the election and not after the election.

4. In our opinion, once it is clear that the exercise of identifying the municipalities in which reservations have been made is a mathematical

exercise and it is not denied that the municipalities which have been identified for reservation in this election has been done as per that mathematical model it cannot held that the exercise is illegal. However, as was held by the Bench in the aforementioned Paramjit's singh case (supra), once the exercise is mathematical then there is no reason why it could not have been concluded before the election and that is precisely what the Bench had said on that occasion.

5. In the circumstances, even while refusing to proceed further, we deem it appropriate to reiterate the observations made in the Paramjit's singh case (supra). Consequently, petition stands dismissed.

6. Since the main case has been decided, the pending application, if any, stands disposed of.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

20.4.2021
anuradha

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No