

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.246 OF 2021

Mr. Aires Rodrigues,
Son of late Antonio Luis Raimundo
Rodrigues, Advocate by profession,
Aged 61 years, with office at C/G2,
Ribandar Retreat, Ribandar, Tiswadi, Goa
403006
Mobil No.9822684372
Email : airesrodrigues1@gmail.com

... Petitioner

Versus

1. Corporation of the City of Panaji
Through its Commissioner,
Panaji, Goa. 403001.

2. Director of Urban
Development/Municipal Administration,
Having office at Dempo Towers,
First Floor, Patto Plaza,
Panaji, Goa 403001.

3. The Secretary (Urban Development),
Government of Goa having office at
Secretariat, Porvorim, Goa 403521.

4. State of Goa
Through Chief Secretary,
Government of Goa having office at
Secretariat, Porvorim, Goa. 403521.

5. Shri Kabir Filipe Pinto Makhija
"Little Nest", H.No.348
Opp Football ground

D.B. Road, Campal,
Panaji – Goa 403 001

6. Shri Kishor Sastry
C Wing, 11 floor,
Agnelo Colony Co-op Housing Society
Ltd., Kerant, Caranzalem,
Panaji-Goa 403 001.

... Respondents

Mr. Aires Rodrigues, *Petitioner in person.*

**Mr. S.S. Katak, Senior Advocate with Mr. Simoes Kher and
Mr. Preetam Talaulikar, Advocates for Respondent No.1.**

**Mr. D. Pangam, Advocate General with Mr. Deep Shirodkar,
Additional Government Advocate for Respondent Nos.2,3 & 4.**

Mr. Raunaq Rao, Advocate for Respondent No.5.

**Mr. Nitin N. Sardessai, Senior Advocate with Mr. S.
Sardessai, Advocate for Respondent No.6.**

**CORAM: M. S. SONAK &
R.N. LADDHA, JJ.**

**Reserved on : 5th JULY 2022
Pronounced on : 11th JULY 2022**

JUDGMENT : (*Per M.S. Sonak, J.*)

1. The Petitioner, by instituting this Writ Petition under Article 226 of the Constitution of India, seeks the following reliefs:

*(a) For striking down the provision in clause (b) to
sub-section (1) of Section 9 of the City of Panaji*

*Corporation Act, 2003 (C.C.P. Act) to the extent this provision permits persons with "**special knowledge or experience in engineering, architecture, archaeology, heritage, etc.**" to be nominated to the Municipal Corporation;*

(b) For quashing notification dated 28.04.2021 and order dated 05.05.2021 nominating respondent nos.5 & 6 as nominated members of the Corporation.

2. The Petitioner, at the outset, submitted that polls were held on 20.03.2021 to constitute the Corporation, and results were declared on 23.03.2021. Respondent no.6 contested the elections but was not elected. On 30.03.2021, the Councillors were sworn in, and even the Mayor was elected. On 01.04.2021, the file for nominating respondents nos.5 & 6 was processed. On 07.04.2021, the Mayor moved a note for the nomination of respondents nos.5 & 6 as Councillors. On 09.04.2021, the Commissioner wrote about the nomination to the Director of Urban Development. Finally, on 28.04.2021, the State issued the impugned notification nominating the respondent nos.5 & 6 as Councillors. Mr. Rodrigues submits that this haste is an indication of non-application of mind.

3. Mr. Rodrigues submits that the impugned notification is ultra vires C.C.P. Act because it refers to nominating respondents

nos.5 & 6 as "*co-opted Councillors*." He submits that there is no provision under the C.C.P. Act for co-option of any Councillors, and in the absence of such provision, the impugned notification is ultra vires and liable to be struck down.

4. Mr. Rodrigues states that Article 243-R(2)(a)(i) of the Constitution makes provision enabling the State legislature to provide for the representation in a Municipality of persons having special knowledge or experience in Municipal administration. He submits that the Constitution does not provide nominating persons with "*special knowledge or experience in engineering, architecture, archaeology, heritage, etc.*". Section 9(1)(b) of the C.C.P. Act, to the extent it permits the nomination of such persons, travels way beyond the limits imposed by the constitutional provision. He, therefore, submits that Section 9(1)(b), to the extent it travels beyond the constitutional limitation in Article 243-R, is ultra vires, unconstitutional, null, and void. He submits that since the respondent nos.5 & 6 have been nominated under Section 9(1)(b) of the C.C.P. Act, which is ultra vires, their nomination is liable to be quashed and set aside.

5. Mr. Rodrigues submitted that the note dated 07.04.2021 from the Mayor of C.C.P. states that respondent no.5 is an expert in engineering. However, the note does not refer to respondents

nos.5 & 6 having special knowledge or experience in municipal administration. He, therefore, submits that their nominations are liable to be quashed since these respondents do not possess the qualifications prescribed in Article 243-R of the Constitution.

6. Mr. Rodrigues submits that no fair and transparent procedure was followed for nominating respondents nos.5 & 6. He submits that there was no advertisement inviting applications, there was no attempt to select the best talent, and the nomination was only to rehabilitate respondents nos.5 & 6 because they were unsuccessful in getting themselves elected through the democratic process. He submits that the nominations are for political considerations, and arbitrariness is involved in the process.

7. Mr. Rodrigues, in the context of the scope of challenge to the appointments made by nomination, submitted that the Government might have been given the discretion to nominate persons who meet minimum criteria, and this Court may not be in a position to sit in judgment over the discretion of the Government. However, he submits that in the present case, since respondents nos.5 & 6 do not possess the essential qualifications of special knowledge or experience in municipal administration, judicial review is warranted.

8. Mr. Rodrigues referred to the biodata and affidavits to submit that respondents nos.5 & 6 have no special knowledge or experience in municipal administration; therefore, their nomination is illegal, unconstitutional, null, and void. He submitted that merely because respondents nos.5 & 6 may have previously been Councillors, that does not entitle them to claim special knowledge or experience in municipal administration. He submitted that the constitutional provisions for nomination are intended to assist the elected Councillors, who may not have sufficient expertise in municipal administration. He presents that this intention cannot be frustrated by simply nominating ex-councilors who have failed to win by the democratic process. Finally, he submits that even the procedure for the nomination was arbitrary and non-transparent.

9. For all the above reasons, Mr. Rodrigues submits that this Petition be allowed, and the nominations of respondents nos.5 & 6 are quashed and set aside.

10. Mr. D. Pangam, the learned Advocate General, at the outset, submitted that the issue of the constitutional validity of Section 9(1)(b) of the C.C.P. Act is only academic because respondents nos.5 & 6 have special knowledge or experience of

municipal administration. He, therefore, submitted that this Court should not go into constitutional validity in this case.

11. Mr. Pangam, without prejudice, submitted that Section 9(1)(b) must be interpreted to permit the nomination of Councillors having special knowledge or experience of municipal administration and also special knowledge or experience in engineering, architecture, archaeology, heritage, etc. He submitted that the State legislature had prescribed additional qualifications without detracting from those specified in Article 243-R of the Constitution.

12. Mr. Pangam submitted that the material before the Government was sufficient to conclude that respondents nos.5 & 6 possess special knowledge or experience in municipal administration. He offered that once the proposed nominees were found to possess the constitutionally prescribed qualifications, the Government had broad discretion in the matter. He submitted that the doctrine of pleasure would apply to such nominations; therefore, the scope of judicial review would be minimal. He relied on *Om Narayan Agarwal & Ors. V/s. Nagar Palika, Shahjahanpur & Ors.*¹, *Vinayak Parihar V/s. State of M.P.*²

¹ (1993) 2 SCC 242

² 2018 SCC OnLine MP 1162

and *Krishna S/o. Bulaji Borate V/s. State of Maharashtra & Ors.*³ in support of his submissions.

13. Mr. Kantak learned Senior Advocate for the C.C.P. defended the nominations. He submitted that there is no bar in the C.C.P. Act for nominating candidates who may have lost at the polls. He relied on *Satya Narayan Prasad V/s. Election Commission of India, Through Secretary Mr. P.R. Chopra, Adv.*

14. Mr. Nitin Sardesai learned Senior Advocate for respondent no.6, also defended the impugned nominations. He submitted that it is the difference between appointment and nominations; therefore, the Petitioner cannot insist on the advertisement and inviting of applications. He offered that there is a difference between eligibility and suitability. Since respondent no.6 was very much eligible to be nominated, the suitability issue should be best left to the Government. He relied on *M. Manohar Reddy & Ors. V/s. Union of India (UOI) & Ors.*⁴

15. Mr. Raunaq Rao, learned Counsel for respondent no.5, submitted that certain other States like Maharashtra or Telangana

3 (2001) 2 SCC 441

4 AIR 2013 SC 795

had framed rules inviting applications for nominations. He submitted that no such regulations had been framed in Goa, and therefore the Petitioner cannot insist upon any advertisement or inviting of applications. He relied on *Balchandra Shirsat V/s. Mayor, Municipal Corporation of Greater Mumbai & Ors.*⁵ to submit that even a nominated Councillor is a Councillor even though he may not be entitled to vote.

16. The rival contentions now fall for our determination.

17. Article 243-R of the Constitution provides for the composition of Municipalities. There is no dispute that the C.C.P. is a "Municipality" as defined under Article 243-P of the Constitution of India. This is because the C.C.P. is an institution of self-government constituted under article 243-Q of the Constitution.

18. Article 243-R(1) provides that save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area, and for this purpose, each Municipal area shall be divided into territorial constituencies to be known as wards.

⁵ 2021 SCC OnLine Bom 526

19. Article 243-R(2) of the Constitution reads as follows:

"(2) The Legislature of a State may, by law, provide-
(a) for the representation in a Municipality of -

(i) persons having special knowledge or experience in
Municipal administration;

(ii) the members of the House of the People and the
members of the Legislative Assembly of the State
representing constituencies which comprise wholly or
partly the Municipal area;

(iii) the members of the Council of States and the
members of the Legislative Council of the State
registered as electors within the Municipal area;

(iv) the Chairpersons of the Committees constituted
under clause (5) of article 243-S:

Provided that the persons referred to in
paragraph (i) shall not have the right to vote in the
meetings of the Municipality;

(b) the manner of election of the Chairperson of a
Municipality."

20. The State Legislature has enacted the C.C.P. Act. Section 9 of the C.C.P. Act provides for the Constitution of the Corporation and the division of the City into wards. Section 9(1) (b), with which we are mainly concerned in this Petition, provides for five nominated Councillors having special knowledge or experience in municipal administration, engineering, architecture,

archaeology, heritage, etc., nominated by State Government by a notification.

21. Section 9 of the C.C.P. Act reads as follows:

"9. Constitution of Corporation and division of City into wards.- (1) The Corporation shall consist of:-

(a) Thirty Councillors directly elected at ward elections;

(b) Five nominated Councillors having special knowledge or experience in municipal administration, engineering, architecture, archaeology, heritage, etc., nominated by the State Government by a notification.

(2) The "Director of Municipal Administration" with the approval of the State Government shall, from time to time by notification in the Official Gazette, specify for the City the number and boundaries of the wards into which the City shall be divided for the purpose of the ward election of Councillors, and the number of Councillors to be elected for each ward:

Provided that, the provisions made under sub-section (1) or notification issued under sub-section (2) shall not have effect until the expiry of the duration of the existing term of the Corporation."

22. The Petitioner alleges a conflict between the provisions in Article 243-R(2)(a)(i) of the Constitution and Section 9(1)(b) of the C.C.P. Act. The Petitioner contends that under Article 243-

R(2)(a)(i), the State Legislature may by law provide for representation in a Municipality of persons only having special knowledge or experience in municipal administration. He submits that Section 9(1)(b) also provides for the nomination of Councillors with special knowledge or experience in municipal administration, engineering, architecture, archaeology, heritage, etc. This portion of Section 9(1)(b), the Petitioner contends, is ultra vires the provisions of Article 243-R(2)(a)(i) of the Constitution.

23. The respondents, in unison, contend that the provisions of Section 9(1)(b) of the C.C.P. Act are not ultra vires Article 243-R(2)(a)(i) of the Constitution simply because they might provide for specific additional categories of persons that could be nominated as Councillors. They submit that the State Legislature not only has the Legislative competence to provide for the nomination of Councillors but also to prescribe the qualifications of such nominees. The learned Counsel, however, contend that the issue of the constitutionality of Section 9(1)(b) may not be gone into this Petition because respondent nos.5 & 6 have special knowledge or experience in municipal administration.

24. Now, if respondents nos.5 & 6 indeed possess special knowledge or experience in municipal administration, then at

least in the present matter, we may not be required to decide the issue of the constitutional validity of Section 9(1)(b) of the C.C.P. Act. However, in a case where the State nominates persons that do not have special knowledge or experience in municipal administration but only have special knowledge or experience in engineering, architecture, archaeology, heritage, etc., we may have to examine the constitutional validity of Section 9(1)(b), if such an issue is raised correctly.

25. Typically when it comes to constitutionality or vires, this Court will not decide such issues if they are only academic or moot. A Writ Court will not determine a constitutional question in a vacuum or as an academic issue. Moreover, if the matter can be resolved on the remaining points without advertng to the issue of constitutionality, then that would be the preferable course to adopt.

26. For reasons discussed hereafter, we think that the material on record does not indicate that respondents nos.5 & 6 have no special knowledge or experience of municipal administration, and consequently, they were not eligible to be nominated as Councillors of C.C.P. Thus, the issue of the constitutional validity of Section 9(1)(b) of the C.C.P. Act as raised is relatively moot or academic. Consequently, such an issue need not be decided in the

present Petition. The point is therefore left open for determination in an appropriate case.

27. The main issue for consideration in this matter is whether respondents nos.5 & 6 have special knowledge or experience in municipal administration. There is also the issue of the legality and validity of the procedure by which respondents nos.5 & 6 came to be nominated as Councillors.

28. The Municipal Commissioner forwarded the biodata of respondents nos.5 & 6 along with the note of the Mayor of C.C.P. to the Director of Urban Development on 09.04.2021. In his communication dated 09.04.2021, the Municipal Commissioner also furnished some additional information concerning respondents nos.5 & 6. Based on all this material, the State nominated respondents nos.5 & 6 as Councillors by the impugned notification.

29. Respondent no.5 is a Diploma holder in Civil Engineering from MM Polytechnic, Belgaum, and a Diploma holder in Business Management from Narsee Monjee Institute of Management Studies, Mumbai. His biodata refers to his interest in sports and modeling. The biodata lists that respondent no.5 was associated with Panjim Citizens Action Committee (PCAC) –

Secretary, Campal Residents' Association – Member, Campal Miramar Residents' Association – Member, Panjim Catenians 353 – Member, Clube Vasco da Gama Managing Committee – Member, Goa Table Tennis Association – Member.

30. By itself, most of the above material may not amount to special knowledge or experience in municipal administration. However, the biodata of respondent no.5 reveals that he was the Corporator at the Corporation of the City of Panaji from 2011 to 2016; that he was elected unopposed as the Deputy Mayor for the term 2014-15; that from 2016 to 2021, he was actively involved in helping his sister, a Corporator; and that he worked for the welfare of C.C.P. ward no.XI and its residents followed up on the projects started during his tenure as the Corporator.

31. The biodata of respondent no.6 indicates that he is an I.T.I. in Electricals from I.T.I. Farmagudi, Ponda, Goa; he was a booth member of the B.J.P. from 2012 till 2016; he was elected as General Secretary of B.J.P. Taleigao Mandal in 2020. Finally, this biodata states that he was elected to the Corporation of the City of Panaji as a Corporator from ward IV in 2016.

32. The Mayor's note dated 07.04.2021 and the Municipal Commissioner's communication dated 09.04.2021 speak of

respondent no.6 being a Councillor from 2016 to 2021 and a member of the Market Committee of the Corporation. Both these documents speak of respondent no.6 being an expert in urban administration.

33. The Petitioner has filed a rejoinder in this Petition. However, he has not disputed that respondent no.5 was a Corporator of C.C.P. from 2011 to 2016 and its Deputy Mayor from 2014 to 2015. Similarly, there is no dispute about respondent no.6 being a Corporator from 2016 to 2021 and a member of the Market Committee of the Corporation. Based on this admitted position, we think that it would not be appropriate for us to interfere with the subjective satisfaction of the State Government about respondents nos.5 & 6 having special knowledge or experience in municipal administration. Such satisfaction or opinion can be said to be based on material about which there is no dispute.

34. There is nothing unreasonable in the perception of the State Government that a former Corporator who has been a Deputy Mayor or a former Corporator who has been a member of the Market Committee of the Corporation would have special knowledge or experience in municipal administration. Merely because Municipal Commissioner in his note dated 09.04.2021

for the Mayor in his note dated 07.04.2021 referred to respondent no.5 as an expert in engineering, that does not detract from his claim to having special knowledge or experience in municipal administration as well. This is more so due to his position as a Corporator for five years and the Deputy Mayor for one year.

35. In this case, we are concerned with "nominations" and not "appointments." Nevertheless, even the nominations will have to abide, among other things, by the constitutional prescriptions of special knowledge or experience in municipal administration. Based on the material now produced on record, which corresponds to the material considered by the State Government, we cannot say that the satisfaction of the State Government about these respondents possessing special knowledge or experience of municipal administration is not based on objective material or that the same is a result of taking into account entirely irrelevant considerations.

36. Mr. Rodrigues, however, submits that merely because some person is a former Corporator or a Councillor, that does not mean or imply that such person essentially has special knowledge or experience in municipal administration. We do not dispute Mr. Rodrigues's contention. However, in a given case, a former

Corporator or a member of the Marketing Committee may have special knowledge or experience in municipal administration. These are matters left to be assessed by the State. As long as the decision of the State is not ex-facie arbitrary, absurd, or untenable, this Court, in exercising its powers of judicial review, will not interfere. Judicial review over an administrative action differs significantly from an appeal with substantial scope. Unless such a decision is based on no objective material or is ex-facie absurd, judicial review may not lie. Based on the material on record, we cannot say that the impugned decision of the State Government belongs to this category.

37. Since we are concerned with the nomination to be made by the State Government and not an appointment, we think that the principles that generally apply to public employment in Article 16 of the Constitution of India will not apply to the present case. Moreover, no restrictions were pointed out either in the Constitution or in the C.C.P. Act based on which some procedure of issuing advertisements or inviting applications would have to be read into the statute when it comes to nominations of Councillors having special knowledge or experience in municipal administration. Therefore, while we agree with Mr. Rodrigues that, ideally, such a procedure could be adopted so that there is no scope for criticism and doubts, the absence cannot be a good

ground for this Court to interfere. Mr. Rao pointed out that some States have already provided such procedures.

38. Incidentally, Mr. Rodrigues, in his oral and written submissions, had conceded that the Government might have been given the discretion to nominate persons who meet the minimum criteria, and this Court may not be in a position to sit in judgment over the discretion of the Government. Therefore, unless Mr. Rodrigues was to establish that respondents nos.5 & 6 have no special knowledge or experience in municipal administration, interference may not be appropriate in exercising our powers of judicial review.

39. Judicial review would apply where the administrative authority acts arbitrarily, perversely, malafide, or with legal malice. In addition, judicial review would apply where the executive authority bases its decision on irrelevant considerations and eschews relevant considerations. Finally, the judicial review will also apply where the decision is so absurd that no decision-maker well instructed in facts and law could have ever made it.

40. The Court exercising judicial review of executive action is mainly concerned with the decision-making process rather than the decision itself. The Court examines if the decision or choice

is made '*lawfully*' and not whether the choice or decision is '*sound*.' Even when called upon to issue a writ of quo warranto, the Court considers whether the appointment is contrary to Statutory or Constitutional provisions. Suitability or otherwise of a candidate is the function of the executive authority and usually not of the Court.

41. The Court does not sit in appeal over decisions or choices of administrative bodies while exercising judicial review. The power is neither intended to review governance under the rule of law nor to step into areas exclusively reserved by our Constitution to the other organs of the State. Finally and most importantly, our personal views or perceptions on a given issue would most certainly be out of place or even irrelevant when exercising such powers of judicial review of executive action.

42. The circumstance that respondent no.6 had contested the elections of Corporator unsuccessfully a few days before he was nominated does not render his nomination invalid. In *Satya Narayan Prasad* (supra), the Division Bench of the Delhi High Court held that the Petitioner therein had not brought to the notice of the Court any constitutional provision, law, rule, regulation, or any provision in the Representation of People's Act, 1951 that prohibits a candidate who contested the Lok Sabha

election and lost the same, from being nominated to the Rajya Sabha.

43. The Court held that in the absence of any prohibition in law, a writ court exercising jurisdiction under Article 226 of the Constitution of India could not issue any mandamus to unseat the Rajya Sabha nominee. The Court observed that the Petitioner's prayer was nothing but a prayer to introduce a statutory provision prohibiting a particular class of candidates from being nominated or elected to the Rajya Sabha. The Court held that this is a legislative function to be discharged by the legislative authorities, and a writ court cannot issue any mandamus to legislate or bring into place a law. The Petition was accordingly dismissed.

44. Here, in the present matter, Mr. Rodrigues could not point out any provision under the Constitution or the C.C.P. Act that prohibits the nomination of an unsuccessful candidate at the municipal polls from being nominated under Section 9(1)(b) of the C.C.P. Act. The observations made by the Delhi High Court will therefore apply. Mr. Rodrigues, however, relied on *Sh. Suresh Kumar And Anr. V/s. State of Haryana & Ors.*⁶ and submitted that the issue raised by him in this Petition is covered

6 1996 112 PLR 464

by this decision of the Division Bench of Punjab and Haryana High Court.

45. *Sh. Suresh Kumar (supra)* was concerned with nominations of respondents nos.3,4 & 5 on the ground that neither of them possessed any special knowledge or experience in municipal administration. The record revealed that respondent no.3 was only primary pass and possessed some knowledge of Urdu and Hindi languages. Respondents nos.4 & 5 had passed the sixth standard and had no special knowledge or experience in municipal administration.

46. In the returns filed, all that was stated was that the three nominated members (respondents nos.3 to 5) had *contested* municipal elections. As such, they possessed special knowledge and experience in municipal administration. The State had also pleaded that it has absolute power to nominate members, and such absolute power was not subject to any judicial review by the Constitutional Court.

47. The Court noted that the impugned notification was based on a list containing the Chief Minister of Haryana's desire to nominate three members each to as many as 75 municipal committees. The Court found that the file did not contain any

material showing the qualifications of respondents nos.3 to 5. Apart from the file, no material had been produced before the Court showing the qualifications possessed by respondents nos.3 to 5.

48. The Court also noted that even respondents nos.3 to 5 had not come forward to say that they remained members of the Municipal Committee in the past and therefore acquired experience in municipal administration. Neither of them had claimed to pass any examination or obtain training from a recognized institution in the field of municipal administration. Neither of them claimed to have secured any diploma in local self-government. Neither of them claimed to have any expertise in municipal laws or handled cases relating to municipal laws. Based on such peculiar facts, the Court concluded that respondents nos.3 to 5 did not possess any special knowledge or experience in municipal administration.

49. Thus, the above decision is quite distinguishable and will not apply to the fact position in the present case. Here, the State Government and respondents nos.5 & 6 have filed affidavits explaining how they possess special knowledge and experience in municipal administration. The respondent nos.5 & 6 do not claim special knowledge or experience in municipal

administration merely because they had contested elections. Instead, these respondents claim special knowledge and experience in municipal administration based *inter alia* on the circumstance that they had been elected Corporators, Deputy Mayor, or Member of Marketing Committee with the Corporation in the past. These factors, coupled with engineering or other skills possessed by the respondent nos.5 & 6, persuaded the State to nominate them as Councillors. Unlike in the case cited, respondents nos.5 & 6 have filed affidavits before this Court. The State had also filed an affidavit explaining the material before it that prompted it to nominate respondents nos.5 & 6.

50. The contention based on any alleged haste also cannot be accepted in the facts of the present case. The record does not bear out haste indicative of non-application of mind. Similarly, reference to respondents nos.5 & 6 as "*co-opted Councillors*" in the impugned notification does not either vitiate the notification or the nomination of respondents nos.5 & 6. Ultimately, such matters cannot be decided only on semantics. The substance of the notification is important.

51. The Petitioner instituted this Petition perhaps with his zeal to bring about a reform in the nomination process. He submitted

that the provisions permitting nominations to elected bodies must not be subverted to provisions for the rehabilitation of defeated or unelectable candidates. Instead, he offered that the nominees must be chosen for their genuine expertise and potential to add lustre and weight to municipal administration. He offered that provisions for nomination were made because the Legislature was conscious that very often, elected representatives might not possess '*special*' knowledge or experience in municipal administration. He proposed that a transparent process he offered would strengthen the democratic process.

52. While we appreciate his zeal and motives to achieve an ideal regime, we are bound to observe the limits of judicial review of administrative action referred to above. As discussed earlier, our inquiry is mainly limited to the legality of choice, not its soundness. Besides, we cannot step into the domain of the Legislature. Therefore, having regard to the limits and the material on record, we do not think that it would be appropriate to interfere with the impugned executive action.

53. For all the above reasons, we dismiss this Petition. Accordingly, respondent no.1 is relieved of the statement recorded in paragraph 9 of our order dated 01.09.2021.

54. The rule is accordingly discharged. There shall be no orders for costs.

R.N. LADDHA, J.

M. S. SONAK, J.

NITI K
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