

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3388 of 2019

Bhim Sena, A Political Party, through
its President-Shri Shridhar Salve, having
its office at Bhimsena, c/o Sanjay Sitaram Sahare,
House No.4400/132/41/A/1, Mekosabagh,
Block No.1, NAGPUR-440 004(MS).

..... **PETITIONER**

...V E R S U S...

1. The Election Commission of India,
New Delhi, through its Additional Secretary,
Office of the Election Commission of India,
Ashoka Road, New Delhi-110 001.

..... **RESPONDENT**

Shri P. S.Wathore, Advocate for petitioner.
Ms Neerja Chaubey, Advocate for respondent-sole.

CORAM :- A.S.CHANDURKAR AND M. W. CHANDWANI, JJ.

DATE :- 12th APRIL, 2023

ORAL JUDGMENT (Per A.S.CHANDURKAR, J.)

Rule. Rule made returnable forthwith and heard the learned
counsel for the parties.

2. The petitioner, President of 'Bhim Sena' is aggrieved by the
communication dated 16.03.2018 by which the request made on behalf of
the petitioner to register the said political party under the Representation of
the People Act, 1951 (for short, the Act of 1951) has been rejected.

3. It is the case of the petitioner that under Section 29-A of the Act of 1951 the manner in which a political party can seek registration with the Election Commission of India has been laid down. The said provision does not preclude the petitioner from being granted such registration as a political party for the reason that the word 'Bhim' is neither a religion nor a caste and the party can be registered with the name 'Bhim Sena'.

4. Shri P. S. Wathore, learned counsel for the petitioner submits that Section 29-A of the Act of 1951 read with the Guidelines prescribed by the Election Commission of India in the context of Section 29-A are clear that the name of the party seeking registration should not contain any religion or caste. The word 'Bhim' being neither a religion nor caste, there was no justification on the part of the Election Commission of India in refusing to register the name as proposed. Despite this stand being made clear by the petitioner in the communications addressed to the Election Commission of India, the registration of the party has been refused. It is urged that the impugned communication dated 16.03.2018 be set aside and the Election Commission of India be directed to register the party in the name proposed therein.

5. Ms Neerja Chaubey, learned counsel for the respondent has opposed the aforesaid submissions. She has relied upon the affidavit in reply in which it has been stated that since the word 'Bhim' has religious

connotation, the registration has been refused. An opportunity was granted to the petitioner to rectify the said aspect but the petitioner failed to do so and hence the impugned communication came to be issued.

In reply, the learned counsel for the petitioner has sought to rely upon the Notification issued by the State Election Commission dated 03.04.2012 which indicates the names of various political parties that have been registered by the State Election Commission with names which contain the word 'Bhim'.

6. We have heard the learned counsel for the parties and we have perused the documents on record. The provisions of Section 29-A of the Act of 1951 prescribe the manner in which a political party can seek registration with the Election Commission of India as such. Guidelines have also been framed by the Election Commission of India in that regard. As per Clause 3(1) of the Guidelines an application seeking such registration shall indicate the name of the party but it should not contain any religion or caste. Perusal of the impugned communication dated 16.03.2018 indicates that the Election Commission of India has refused to grant approval on the ground that the word 'Bhim' is a religious word. Except for stating the aforesaid, no clear reason referable to Section 29-A or to the Guidelines has been assigned for turning down the request for registration.

7. The Guidelines framed by the Election Commission of India are clear and do not permit the name of a party proposed to be registered to contain reference to any religion or caste. Prima facie, the word 'Bhim' does not indicate that it is any religion nor does the Scheduled Castes Order, 1950 refer to the said word as a caste. For refusing registration of a political party, the matter is governed by the Guidelines and a clear reason for refusing to such registration ought to have been indicated. The impugned order dated 16.03.2018 does not indicate why the registration of the political party has been refused though the word 'Bhim' cannot be said to be either a religion or a caste.

8. Since it is the primary duty of the Election Commission of India to consider the grant of registration to a political party, we are of the view that the matter requires re-consideration by the Election Commission in the context of the provisions of Section 29-A of the Act of 1951 read with the Guidelines prescribed by the Election Commission of India. For the said purpose, we are inclined to direct the Election Commission of India to re-consider the application made by the petitioner for its registration in the light of the prevailing Guidelines.

9. Accordingly the following order is passed:

- (i) To enable re-consideration of the petitioner's application, the order dated 16.03.2018 passed by the respondent - Election

Commission of India is set aside.

- (ii) The respondent is directed to re-consider the petitioner's application seeking such registration in the light of Section 29-A of the Representation of the People Act, 1951 read with the Guidelines prescribed by the Election Commission of India. The same shall be done after giving an opportunity of hearing to the petitioner to demonstrate its entitlement to such registration. The entire exercise be completed within three months from receiving copy of this judgment/order.
- (iii) Rule is made absolute in aforesaid terms with no order as to costs.

(M. W. CHANDWANI, J.)

(A.S.CHANDURKAR, J.)

Andurkar..