



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(208-2)

CWP-6376-2020
Date of Decision: 21.11.2024

RAM PRAKASH
Versus
STATE OF HARYANA AND OTHERS
...Petitioner
...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present:- Mr. Mukesh Rao, Advocate
for the petitioner.

Mr. Ankur Mittal, Additional A.G. with
Mr. P.P. Chahar, Sr. DAG.
Mr. Saurabh Mago, DAG,
for State of Haryana.

Mr. Ashish Yadav, Advocate
for the respondents No.5 and 6 (M.C Rewari).

SURESHWAR THAKUR, J. (Oral)

The prayer made in the writ petition becomes extracted
hereinafter,

“The present civil writ petition under Article 226/227 of the Constitution of India for the issuance of a writ, order or direction in the nature of declaration for declaring the notification No.18/8/95/2010-3C1 dated 07.07.2010 (Annexure P- 2) passed by respondent No.1 being illegal, null and void and contrary to Section 10 of the Haryana Municipal Act, 1973 as it does not take into consideration the latest census of 2011, which was notified well before the conduct of the general elections of Municipal Council, Rewari 2013 and for issuance



of writ of certiorari for quashing the consequential order dated 25.04.2019 (Annexure P-18) passed by respondent No.3 and consequential notification No.18-08.2010-3C dated 30.10.2019 (Annexure P -15 colly) being contrary to the statutory provisions and law, in the interest of justice.

And

Issuance of writ in the nature of mandamus directing the State government/respondent No.1 to accord the consent of the State Government under section 3-A of the Haryana Municipal Act, 1973 to conduct the general election of the Municipal Council, Rewari on the notification No.18/186/2017-3CI dated 09.10.2017 (Annexure P-5) already issued under section 10 of the Haryana Municipal Act, 1973, i.e. on existing wardbandi as already requested by the respondent No.2 vide No.SEC/1ME/2018/ dated 20.07.2018 to the respondent No.1 and further in terms of the direction of the Hon'ble High Court while allowing the CWP No. 19822 of 2018 decided on 19.12.2018.

And

*Issuance of a writ, order or direction in the nature of mandamus directing the State Election Commission/respondent No.2 to conduct the election immediately on the basis of reservation of wards in terms of notification No.18/186/2017-3CI dated 09.10.2017 (Annexure P-5) already issued under Section 10 of the Haryana Municipal Act, 1973 , in view of Section 7-A of the Haryana Municipal Act, 1973 as amended w.e.f. 19.04.2018 vide the Haryana Municipal (Amendment) Act, 2018 as the constitutional mandate under Article 243-U of the constitution of India and law laid down by the Hon'ble Supreme Court reported in **AIR 2007:SC:269: Kisan Singh Tomer Vs. Municipal corporation of City of Ahmedabad.***

And

Issuance of writ in the nature of mandamus directing the respondents that before issuing election schedule for the upcoming election-2019/2020 of the Municipal Council, Rewari, the number of seats for the members belonging to the Scheduled Castes be refixed as per the notification No. 18/186/2017-3CI dated 09.10.2017 (Annexure P-5) already issued u/s 10 of the Haryana Municipal Act, 1973.

And/or

Any other writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case, be issued.

And/or

It is further prayed that during the pendency of the present writ petition, the respondents may kindly be directed not to issue



election schedule before the number of seats for the members belonging to the Scheduled Castes are refixed in proportion to their population”.

Reading of the said prayer makes it absolutely clear that the challenge was made to the notification whereby elections were notified and the election programme also therein became declared. The said relief became controverted, through the reply filed by the respondent(s) concerned. In the relevant paragraphs, it is stated that the Elections of the Municipal Council, Rewari, on the basis of the existing delimitation of wards, has already been conducted on 27.12.2020, as per the notification dated 03.12.2020 issued by the State Election Commission Haryana. The result has also been declared on 30.12.2020 by the State Election Commission, Haryana, and notified vide notification No.SEC/1ME/2021/02, dated 01.01.2021.

Be that as it may, since the elections have already been concluded whereafter the democratically elected representatives have already joined the elected offices concerned.

In the wake of the above, if this Court still proceeds to grant relief to the present petitioners thereby this Court may proceed to assume the jurisdiction of the election Tribunal, which otherwise is not at this stage, so assumable by this Court, given the same being assumable only after a decision being passed by election Tribunal concerned. Since no election petition becomes filed by the aggrieved before the election Tribunal, besides when the filing of the election petition now appears to be time



barred. Consequently, for all the above stated reasons, this Court finds no merit in the writ petition.

However, liberty is granted to the petitioner to re-access this Court at an appropriate stage, thus as and when fresh elections become declared, moreso, when the period of limitation for the filing of the election petition has lapsed. Therefore, if in the freshly notified election programme, thus the reservation roster as drawn, suffers from some infirmity thereby the aggrieved therefrom may but that stage, re-access the Court.

(SURESHWAR THAKUR)

JUDGE

(SUDEEPTI SHARMA)

JUDGE

November 21, 2024

mahima

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No