

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(208)

CWP-32013-2019 (O&M)
Date of Decision: 21.11.2024

PARMANAND

...Petitioner

Versus

STATE OF HARYANA AND ORS

...Respondents

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

Present:- Mr. Anil Kumar Sharma, Advocate for the petitioner.

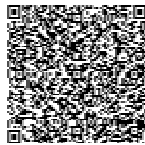
Mr. Ankur Mittal, Additional A.G. with
Mr. P.P. Chahar, Sr. DAG.
Mr. Saurabh Mago, DAG,
for State of Haryana.

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 mandamus directing the respondents to the effect 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 in proportion to their population as envisaged u/s 10 of the Haryana Municipal Act, 1973 as per survey report already submitted by the survey agency to the Deputy Commissioner Rewari.



Issuance of writ, in the nature of certiorari quashing the illegal action of the respondents in proceeding the issuance of Election Schedule for the upcoming election 2019/2020 of the Municipal Council, Rewari, without complying the provision under Section 10 of the Haryana Municipal Act, 1973 & Rule 3A of the Haryana Municipal Delimitation of Wards rule, 1977 for fixing the wards for Schedule Caste as per the census and without deciding the representations given by the petitioner (Annexure P-11 Colly) in compliance to the directions of this Hon'ble Court in CWP No.25312 of 2012 titled as Shashi Devi & another versus State of Haryana and others and further in CWP No.7876 of 2018 titled as Bharat Vs. State of Haryana & Ors.

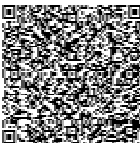
AND/OR

Any other writ, order or direction which this Hon'ble Court 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 re-fixed in proportion to their population.

Reading of the said prayer makes it absolutely clear that the challenge was made to the notification wherebys 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	Yes/No
Whether reportable	Yes/No