
(1969) 05 P&H CK 0031

In the Punjab And Haryana At Chandigarh

Case No : Supreme Court Application No. 172 of 1969

Bhagat Ram Patanga

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 29-05-1969

Acts Referred:

Constitution of India, 1950 — Article 133(1)
Punjab Municipal Act, 1911 — Section 16

Citation : AIR 1970 P&H 110

Hon'ble Judges : Mehar Singh, C.J; R.S. Sarkaria, J; Harbans Singh, J; D.K. Mahajan, J; Balraj Tuli, J

Bench : Full Bench

Advocate : R.S. Mittal, for the Appellant;

Final Decision : Dismissed

Judgement

1. This will dispose of two Supreme Court Applications Nos. 172 and 173 of 1969 from our judgment, dated April 10, 1969, which was given in two separate appeals under Clause (10) of the Letters Patent by two separate applicants Bhagat Ram Patanga and Om Parkash Agnihotri.

2. The applicants conducted themselves in an unruly manner in a meeting of the Municipal Committee of Phagwara and on that account a show cause notice was given to either under the proviso to Section 16(1) of the Punjab Municipal Act, 1911 (Punjab Act 3 of 1911), why either be not removed from the membership of the Municipality for having flagrantly abused his position as a member or it. The applicants gave their replies to the show-cause notices. After that the State Government proceeded to remove them from the membership of the Municipality and to impose a disqualification in the terms of Section 16 of the Act from contesting Municipal elections for a stated period. In the writ petitions by the applicants a learned Single Judge was of the opinion that their conduct taken as such did not amount to flagrant abuse of their position as Municipal Commissioners. So the writ petitions were accepted and the orders of the State

Government were quashed. On appeals by the State Government against the order of the learned Single Judge, a Special Bench came to the conclusion that the unruly conduct of the applicants did amount to flagrant abuse of his position by either as a municipal commissioner of the municipality. This we consider is a question of fact and no question of law is involved.

On a further argument on the side of the applicants that the State Government's orders removing the applicants from the membership of the municipality did not give reasons for the decision of the State Government, the file of the case was looked into and it was found that the State Government had actually given reasons for its order, and such an order having been made in each case, a notification was issued in the terms of Section 16 of the Act removing each applicant from the membership of the municipality. So the appeals of the State Government were accepted, and the petitions of the applicants under Article 226 of the Constitution were dismissed. These are two applications for a certificate of fitness for appeal to the Supreme Court by the applicants under Article 133(1)(c) of the Constitution. The judgment is one of reversal, but no question of valuation in a case like this is involved. So what has to be seen is whether there is a substantial question of law involved on the basis of which the certificate as prayed for can be given to each, one of the applicants. Two arguments have been urged by the learned counsel for the applicants. One argument is whether the unruly conduct of the type, about which at this stage there is no dispute, amounts to flagrant abuse by either applicant of his position as a member of the municipality, and the Bench has come to the conclusion that it does, which, as stated, is a decision on a matter of fact and no question of law is involved.

8. The only other argument urged by the learned counsel for the applicants is that we could not look into the executive file of the State Government to discover reasons for its decision. In this respect reliance is placed on *Pragdas Umar Vaishya v. Union of India*, Civil Appeal No. 657 (N) of 1967, decided by the Supreme Court on August 17, 1967. (SC) but that was a case under the Mineral Concession Rules, 1960, in which their Lordships held that a speaking order was necessary because an appeal was provided against that order. There is no such appeal provided against the orders that were questioned in the petitions of the present applicants.

On the facts, the case is no parallel. : was not that the executive file was looked into to reconstruct reasons in support of the orders of the State Government. The executive file was seen to find what exactly was the order of the State Government and whether it was supported by reasons, and this we found as a fact to be correct. In each case the order was there and in each case the reasons were given this again is a conclusion of fact. So no question of law is involved.

4. On the consideration as above the two applications have to be dismissed but today two miscellaneous applications C. M. Nos. 1587-C & 1588-C have been listed and the learned counsel for the applicants says that the main applications should also be disposed of and that is why the main applications have been

considered and arguments with regard to the same have been heard. The two Supreme Court Applications Nos. 172 and 173 of 1969 for the reasons already stated, stand dismissed and with that the two miscellaneous applications also come to be dismissed. There is, however, no order in regard to costs.