

(1990) 02 MP CK 0046
In the Madhya Pradesh High Court
Case No : M.P. No. 711 of 1987

Bhaskar Singh Raghuvanshi APPELLANT
Vs
Harveer Singh Raghuvanshi and Others RESPONDENT

Date of Decision : 14-02-1990

Acts Referred:

Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972 — Section 2(1)

Citation : (1992) ILR (MP) 1 : (1991) MPLJ 557

Hon'ble Judges : T.N. Singh, J; S.K. Dubey, J

Bench : Division Bench

Advocate : R.D. Jain, for the Appellant; R.A. Roman, Dy. Govt. Advocate, for the Respondent

Final Decision : Allowed

Judgement

Shri R.D. Jain,, Counsel for the petitioner.

Shri R.A. Roman, Deputy Government Advocate for the State

The Additional Collector, Guna, as Election Tribunal under the M. P. Krishi Upaj Mandi Adhiniyam, 1973 has passed the impugned order, Annexure P-1. By that order, he has dismissed the Election Petition, holding that respondent No. 1 Harveersingh Raghuvanshi was an "Agriculturist" within the meaning of the term defined in Section 2(1)(b) of the M. P. Krishi Upaj Mandi Adhiniyam, 1973 (for short "the Adhiniyam").

Shri Jain, who appears for the petitioner, has challenged the finding of the Tribunal, submitting that the finding is perverse and is contrary to the amended definition of the term, which came on the statute book in the year 1985, from 25-7-1985. The Election in the instant case was held in October, 1985. There is definitely substantial force in the contention pressed by Shri Jain as support for that to be read in a D. B. Decision of this, Court in Maheshkumar v. Addl. Collector 1988 MPIJ 6 . Counsel's reliance on two decisions of the Apex Court in the case of Abdul Rahiman Khan Vs. Sadasiva Tripathi, and Konappa Rudrappa

AIR 1969 SC 447, is well conceived and relevant.

We are in complete agreement with the view expressed in Maheshkumar (supra) that the amended definition has a definite purpose. The legislature has made a deliberate attempt to ensure that persons who are completely dependent for livelihood on agriculture should come in the Mandi Samiti and should be eligible to contest election to the Mandi Samiti. Indeed, traders and agriculturists are two components of the Mandi Samiti and if under the garb of agriculturist, other persons following other avocations are included into Mandi Samiti, the whole purpose of the enactment would be frustrated. It is necessary, therefore, for a person staking his claim to contest election to a Mandi Samiti to establish that his livelihood was dependent only on agricultural produce and he did not depend on some other profession or business, as held in Maheshkumar (supra). It is the complete involvement of the person in the pursuit of agriculture, that is contemplated under the new definition and that is done to subserve the purpose of the enactment.

In the instant case, the Tribunal has not paid due consideration to the amended definition and has still held that the respondent No. 1 was dependent for his livelihood wholly on agriculture. The facts that he was engaged in contract works and some bills were due payable were found irrelevant to the status claimed by him. We do not think, if such a view is countenanced by the new definition and we are of the opinion that the finding of the Tribunal is perverse.

It is submitted by Shri Jain that the petitioner and the respondent No. 1 were only two candidates and as such Under Rule 44(c) of the Relevant Rules framed under the Adhiniyarn, the petitioner had to be declared elected. We do not think that we should express any opinion in that regard because the matter has to be reconsidered in toto by the Tribunal.

For the reasons aforesaid, the impugned order Annexure P-1 is quashed. Parties shall be re-heard and a fresh decision in the election petition of the petitioner shall be rendered within 2 weeks of their appearance. Counsel agree to appear before the Election Tribunal (Additional Collector) on 5th of March, 1990.

The petition succeeds to the extent aforementioned. However, we make no order as to costs. Security amount, if any, in deposit shall be returned to the petitioner.