

(1978) 11 SHI CK 0002
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 241 of 1978

Devi Ram Sharma

APPELLANT

Vs

The State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 07-11-1978

Acts Referred:

Himachal Pradesh Gram Panchayat (Election) Rules, 1978 — Rule 14
Himachal Pradesh Panchayati Raj Act, 1968 — Section 186

Citation : (1978) 7 ILR HP 623

Hon'ble Judges : T.U. Mehta, C.J.; D.B. Lal, J

Bench : Division Bench

Advocate : Kamlesh Sharma, for the Appellant; M.G. Chitkara, General, for the Respondent

Judgement

T.U. Mehta, C.J.—The Petitioner herein has filed his nomination for being elected as the Pradhan of village Chakoh Gram Sabha on 27-10-1978 stating his age to be of 28 to 29 years. Respondent No. 3, who is the Returning Officer, raised an objection as regards his age. The Petitioner states that thereupon he produced his certificate of age, but by that time the Returning Officer had already rejected his nomination papers and subsequently refused to revise that order though on his own orders the Petitioner I had taken time to produce his age certificate. The Petitioner has further averred that since the Returning Officer informed him that his nomination papers were rejected, he filed a petition on 1-11-1978 before the Deputy Commissioner, Bilaspur. However, according to the Petitioner, the Deputy Commissioner "simply kept the petition on record and told the Petitioner that, he (Deputy Commissioner) had no jurisdiction to interfere and thus no action was taken thereon".

2. The scrutiny of the nomination papers is required to be made by the Returning Officer as provided in Rule 14 of the Himachal Pradesh Gram Panchayat Election Rules, 1978. It is found by reference to Section 186 of the Himachal Pradesh Panchayati Raj Act, 1968, that any dispute "relating to" election of Pradhan or Up-

Pradhan of a Gram Panchayat shall be decided by the Deputy Commissioner after taking such evidence as he deems fit. The expression "relating to" is wide enough to cover any stage which has relevance to election of Pradhan or Up-Pradhan. Under the circumstances, Section 186 of the Act cannot be construed as confining its operation only to the stages after the election is over. In this case the stage was prior to the election. It was the stage of rejection of the nomination papers by the Returning Officer. This stage is obviously "relating to" election of Pradhan and, therefore, the Deputy Commissioner has jurisdiction u/s 186 of the Act to decide the dispute raised by the present Petitioner regarding the rejection of his nomination papers by the Returning Officer. If that be so, the Deputy Commissioner was obliged u/s 186 to give his, decision on the dispute raised by the Petitioner as regards the rejection of his nomination papers.

3. The learned Advocate General, who was heard on this point, has made a statement that the Deputy Commissioner concerned shall decide the petition filed by the Petitioner to him On 1-11-1978 within five days from now. Miss Kamlesh Sharma, who appears on behalf of the Petitioner, states that the Petitioner shall present himself before the Deputy Commissioner, tomorrow with necessary evidence. If the Deputy Commissioner allows the petition of the Petitioner and find that the rejection of the nomination papers of the Petitioner was not justified, then, as a natural consequence thereof, the Petitioner shall be entitled to contest the election.

4. In view of above, it is ordered that the Deputy Commissioner shall decide the application of the Petitioner filed before him on 1-11-1978 within five days from now. The writ be issued accordingly. Dasti order on usual terms.