

(1984) 11 MP CK 0026

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 2285 of 1984

Dr. Girish Kumar Vyas

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

Date of Decision : 22-11-1984

Acts Referred:

Madhya Pradesh Municipal Corporation Act, 1956 — Section 23, 38, 421, 421(1), 421(4)

Citation : AIR 1985 MP 224 : (1985) ILR (MP) 78 : (1985) JLJ 583 : (1985) 30 MPLJ 96

Hon'ble Judges : G.L. Oza, Acting C.J.;B.M. Lal, J

Bench : Division Bench

Advocate : Y.S. Dharmadhikari, for the Appellant; M.V. Tamasker, Dy. A.G., M.C. Nibhani and Annoop Choudhary, for the Respondent

Final Decision : Partly Allowed

Judgement

Oza, Ag. C.J.

This is a petition filed by the petitioner challenging the election of the Mayor, Deputy Mayor and the Standing Committee and its Chairman and Members and the Consultative Committees elected on 31-3-1984 to be invalid and also for a declaration that the Municipal Corporation of Bhopal (Respondent 3) stands automatically dissolved on 26-3-1984. It is also sought that therefore the order of suspension passed against the petitioner by resolution of the Standing Committee, dated 24-7-1984, be also quashed as it is without any authority.

According to the petitioner, he had passed his M.B.B.S. Examination from Gandhi Medical College, Bhopal, in the year 1968 and in the year 1975 the Municipal Corporation, Bhopal, advertised the post of Medical Officer in the Corporation and the petitioner was appointed on 31-3-1975. It is alleged by the petitioner that although the Municipal Corporation, Bhopal, was constituted in the year 1967 but till 1983 there were no elections and ultimately on a petition filed in this Court a direction was issued by this Court for holding elections and it is alleged that

ultimately the elections were held on 10th Feb 1983 and the names of the elected councillors were published in the Madhya Pradesh Gazette dated 5-3-1983. It is also alleged that the names of selected Corporators (Councillors) were notified in the Madhya Pradesh Gazette dated 16-3-1983 and the election of Mayor and Deputy Mayor was notified in the Gazette on 30-4-1983. It is alleged that the first general meeting of the Corporation after election and selection of the councillors was held on 26-3-1983 u/s 28 of the Municipal Corporation Act for electing a Mayor and a Deputy Mayor, ten members of the Standing Committee of the Corporation and its Chairman and the constitution of Special Committees.

It is also alleged by the petitioner that in this meeting dated 26-3-1983 Dr. R.K. Bisaria was elected as a Mayor of the Municipal Corporation and Shri Habib AH was elected as a Deputy Mayor. Shri Ashok Kumar Bhawa was elected as Chairman of the Standing Committee along with nine members and seven Consultative Committees also were constituted.

It is alleged by the petitioner that u/s 23 of the Municipal Corporation Act the term of the office of Mayor and Deputy Mayor is one year from the date of first meeting after the general election and this term of one year commencing from 26-3-1983 comes to an end on 25-3-1984. The term of the Standing Committee and the Chairman of the Standing Committee is also one year and it therefore also comes to an end along with Mayor and Deputy Mayor u/s 38 of the Municipal Corporation Act. Similar is also the situation about Consultative Committees. According to the petitioner, therefore, on 25-3-1984 the term of the Mayor, the Deputy Mayor, the Standing Committee and all other committees expired.

It is alleged by the petitioner that on 16-3-1984 the Mayor of the Municipal Corporation, Bhopal issued a notice in accordance with the rules framed u/s 23 of the Municipal Corporation Act notifying that the election of Mayor, Deputy Mayor, constitution of Standing Committee, its Chairman, and constitution of the special committees and their members shall be held in a meeting to be held on 25-3-1984. It is alleged that during the period between 16-3-1984 and 25-3-1984 the Revenue Commissioner, Bhopal Division, Bhopal, issued a notice purporting to be u/s 28 of the Municipal Corporation Act notifying that the election of the Mayor and Deputy Mayor, Standing Committee, its Chairman and other Committees and their members shall be held on 31-3-1984.

It is alleged that in pursuance of the notice issued by the Mayor, a meeting was to be held on 25-3-1984 but that could not be held and the election of Mayor and Deputy Mayor could not be held on 25-3-1984 as was expected in accordance with the notice issued by the Mayor of the Corporation but according to the petitioner in the meeting held on 31-3-1984 in accordance with the notice issued by the Commissioner elections were held of Mayor, Deputy Mayor, Standing Committee, its Chairman and other Committees. It is also alleged that in the meeting of this date, i.e. 31-3-1984, the Revenue Commissioner presided over the meeting and the elections were conducted for the second term. It is alleged that Shri Deepchand is said to have been elected as the Chairman of the

Standing Committee. According to the petitioner, the meeting held on 31-3-1984 is not in accordance with law and as no elections were held for Mayor and Deputy Mayor and the Standing Committee till 31-3-1984 the Corporation stood dissolved u/s 422-A.

It is alleged that the Commissioner had no authority to convene the meeting after the expiry of the first term under rules framed u/s 23 of the Municipal Corporation Act and R. 2(d) of these rules provides that after every subsequent election the first meeting will be called by the outgoing Mayor. It is also, therefore, contended that as elections could not be held before 26-3-1984, the Corporation stood dissolved on 26-3-1983 u/s 422-A and therefore the Revenue Commissioner could not hold the elections of Mayor and Deputy Mayor on 31-3-1984.

It is alleged by the petitioner that the petitioner was promoted to the post of Health Officer for a period of six months or until further orders in expectation of the concurrence of the M.P. Public Service Commission by orders dated 24-6-1981 and M.P. Public Service Commission by its letter dated 24-8-1983 accorded concurrence to the promotion of the petitioner to the post of Health Officer. It is further alleged that after the new Standing Committee took charge under Shri Deepchand who was elected as the Chairman of the Standing Committee wanted to change the entire system of taking samples of food and the Standing Committee wanted to handover the work to only a few Sanitary Inspectors and the petitioner as Health Officer wrote a note against this Scheme of the Standing Committee. The Chairman of the Standing committee was displeased with the petitioner and because of this it is alleged by the petitioner that by resolution dated 24-7-1984 they suspended the petitioner with immediate effect saying that a charge-sheet is also being delivered separately to the petitioner and Dr. Mrs. Habiba Sultan was directed to discharge the functions of the Health Officer. It is alleged that Dr. Mrs. Habiba Sultan was on maternity leave but that leave was cancelled and she was asked to take over charge. It is alleged by the petitioner that on 30-7-1984 he learnt about this resolution by newspaper and approached the State Government with a representation and the State Government by order No. 6087 dated 31-7-84 suspended the order of the Municipal Corporation dated 30-7-1984 and it is alleged that the Commissioner of the Municipal Corporation also communicated the petitioner the order of the State Government dated 31-7-1984. It is further alleged that subsequently without any notice, the petitioner was intimidated by the Commissioner, Municipal Corporation, by his order dated 2-8-84 that the State Government has withdrawn the order dated 31-7-1984 and the order of suspension of the petitioner passed by the Municipal Corporation has been made effective. It is alleged that the State Government had powers u/s 421(1) to pass an order suspending any action and in exercise of that power the State Government by its order dated 31-7-1984 suspended the order passed by the Corporation against the petitioner but the State Government while passing the order dated 2-8-1984 u/s 421(4) did not afford any opportunity of hearing the petitioner and therefore this order could

not be maintained.

The contentions advanced by the learned counsel for the petitioner at the time of hearing were that as the first general meeting of the Corporation after its election in 1983 was held on 26-3-1983 when the first Mayor and Deputy Mayor and the Standing Committee were elected, the tenure of all these office-bearers being one year, it came to an end on 25-3-1984. It was also contended that S. 422-A of the M.P. Municipal Corporation Act provides for automatic dissolution of the Corporation if it fails to perform its functions within the prescribed time and Cl. (b) of this section provided that the dissolution will take effect on the date immediately following the date on which the period of twelve months specified in Explanation to Sub-section (i) of S. 23 expires. It was, therefore, contended that as the elections of Mayor, Deputy Mayor and the Standing Committee were held on 26-3-1983 the year came to an end on 25-3-1984 and therefore the Corporation stood dissolved on 26-3-1984 and therefore the subsequent election of the Mayor, Deputy Mayor and Standing Committee held on 31-3-1984 was invalid and ineffective. It was contended that Section 422-A will have to be read in the light of Sections 23, 20 and 28 of the M.P. Municipal Corporation Act. It was contended that u/s 20 the term of office of elected or selected councillors is provided to be of four years although it provides for extension of one year by the State Government. It is also provided in this section that the term of office shall be deemed to commence from the date appointed for the first general meeting after election. It is further contended that the term of office of Mayor and Deputy Mayor u/s 23 and the Standing Committee u/s 38 is one year.

It is further contended that Section 28 provides for the first meeting after general election for election of Mayor and Deputy Mayor and the Standing Committee. Section 23 provides for the election of Mayor and Deputy Mayor at its first meeting each year and this, according to the learned counsel, will clearly mean that after the end of first term on 25-3-1984 in the next year in the first meeting the elections for the Mayor and Deputy Mayor were to be held but it was contended that if this first meeting is not held on 26-3-84 then because of Section 422-A, Clause (b), the Corporation stands dissolved on that date and therefore it is incumbent that after the end of one year, in the present case after 25-3-1984, the meeting ought to be held on the first day of the next year, i.e. 26-3-1984, and it was contended that it was because of this that the Mayor had called a meeting on that date.

Learned counsel also contended that as the term of office of the Mayor, Deputy Mayor and other members of the Standing Committee is one year and if it is accepted that the first meeting each year may be after a few days in the next year, then the term of office of the Mayor and Deputy Mayor and Standing Committee members in the fourth year will not remain for one year but will be for a shorter period and it was, therefore, contended that this also indicates that the first general meeting every year must be held on the first day of that year and if it is not done and the Mayor and Deputy Mayor are not elected, by

operation of Section 422-A the Corporation stood dissolved. Learned counsel referred to the decisions in *Rajendar Singh Vs. N.K. Shejwalker and Another*, and *Mohammad Ali Khan v. State of Madh Pra.* 1983 MPLJ 444 : (AIR 1983 MP 141).

It was also contended that even if this contention of the petitioner is not accepted, still the suspension order passed by resolution of the Standing Committee, dated 24th July 1984, is not justified as, it is biased and it was contended that, as this order of suspension itself was suspended by the State Government by its order dated 31-7-1984 the State Government could not withdraw that order u/s 421(4) as was done without giving an opportunity of hearing to the petitioner and as admittedly the order dated 2-8-1984 withdrawing the earlier order was passed without giving any opportunity to the petitioner, that order could not be maintained.

Learned counsel appearing for the Municipal Corporation contended that u/s 23 the Mayor and the Deputy Mayor are to be elected in the first meeting each year and if they are elected in the meeting held on 31-3-84 it would not be said that the Corporation has failed to elect a Mayor or Deputy Mayor as required u/s 23 and therefore the Corporation could not be said to have been dissolved u/s 422-A. It was also contended that although the the rules framed u/s 23 refer to a meeting to be called by the Mayor or Deputy Mayor but it was contended that Section 28 provides for a meeting for election of a Mayor and a Deputy Mayor and the Standing Committee and this section clearly authorises the Revenue Commissioner to call a meeting for that purpose. It is contended that although the Mayor had issued a notice for the meeting on 26-3-1984 but later it was learnt that meeting for election u/s 28 could only be called by the Revenue Commissioner and therefore the meeting dated 26-3-1984 was not held and in accordance with the notice issued by the Commissioner a meeting was held on 31-3-1984 where the elections took place and it was therefore contended that these elections held on 31-3-1984 could not be said to be illegal or invalid. Under these circumstances it was contended that the Standing Committee which passed a resolution for suspension of the petitioner was competent to do it and the order of suspension could not be said to be invalid on that ground.

Learned Counsel by reference to *Raghuvans Prasad v. Mahendra Singh* 1967 MPLJ 941 and *Bir Govind Singh v. Chief Municipal Officer, Municipal Committee, Jora* 1968 MPLJ 776, contended that the provisions contained in Section 23 about the holding of meeting every year are not mandatory but are merely directory and therefore even if the meeting is not held immediately at the beginning of the next year, it could not be said that there is any illegality.

As regards the orders passed by the State Government u/s 421, learned counsel contended that the order passed by the State "Government on 31-7-1984 itself is beyond the scope of Section 421 as Section 421 contemplates an order staying the execution of some order or doing of some act which was to be done as the order of suspension came into effect immediately it could not be said that there was anything which remained to be done and as there was nothing which

remained to be done the order passed by the State Government u/s 421 on 31-7-1984 itself was without jurisdiction. It was also contended that having passed the order u/s 421(1) the Government sent a copy of this order to the Corporation as contemplated u/s 421(2) and the Corporation u/s 421(3) submitted their representation and then the Government passed the order u/s 421(4). It was contended that under the scheme of Section 421 what was expected was only to consider the representation of the Corporation and there was no occasion for giving an opportunity of hearing to the petitioner. Learned counsel placed reliance on the decision in *Moolchand and Another Vs. Indore Municipal Corporation and Another*,

15A. Learned counsel appearing for the other respondents than the State also contended that as the order passed by the State Government, dated 31-7-1984 itself is without jurisdiction as it does not fall within the ambit of Section 421, its modification or withdrawal by order dated 2-8-1984 was unnecessary and even if that order is passed it could not be contended that any opportunity of hearing should have been given to the petitioner.

Learned Deputy Advocate General appearing for the State contended that as the State Government in exercise of jurisdiction u/s 421 passed as order suspending the operation of the order of suspension passed against the petitioner, the Corporation under Sub-section (3) was entitled to make a representation and it did make a representation and therefore under Sub-section (4) the State Government was only bound to consider the representation made by the Corporation and the State Government after consideration of the representation made by the Corporation withdrew the order passed on 31-7-1984. It was therefore contended that it was not necessary for the State Government to have heard the petitioner before modifying or withdrawing the order passed on 31-7-1984. The learned counsel, however, frankly conceded that the order passed by the State Government on 2-8-1984 withdrawing or cancelling the order passed on 31-7-1984 no doubt is a modification of the earlier order which goes against the petitioner but in view of the language of Section 421 it was contended that it was not necessary for the State Government to give a hearing to the petitioner.

Section 20 of the M.P. Municipal Corporation Act provides :

"20. Terms of Office.--(1) The terms of office of the Councillors elected at a general election or selected by the elected councillors under this Act shall ordinarily be four years extensible by order of the Government for a period not exceeding one year in the aggregate for reasons which shall be notified in the Gazette.

(2) The term of office of such councillors shall be deemed to commence on the date appointed for the first general meeting after such election.

x x ? x (4) If within the period of four years mentioned in Sub-section (i) or if the said period of four years is extended thereunder then if within period as

extended, the Corporation is not newly constituted, the Corporation shall on the expiry of the said period of four years or the extended period, as the case may be, stand dissolved and the provisions of Section 423 shall apply in respect thereof as they apply in respect of dissolution u/s 422-A".

This section provides for the term of office of the councillors elected or selected and it says that it shall be ordinarily a period of four years. In Sub-section (2) of this section this term of the office of the councillors elected or selected commences from the date appointed for the first general meeting after such election. It, therefore, appears that elections may have taken place earlier but the tenure of office commences from the date of the first general meeting. This first general meeting is a term occurring in Section 28 of the M.P. Municipal Corporation Act, which reads :

"28. First meeting after general election.--(1)The Revenue Commissioner, or in his absence due to any reason, his representative not below the rank of a Collector as may be authorised by him in this behalf in the case of first general election and in the case of every subsequent election, shall call the first meeting of the Corporation as soon as the election and selection of the Councillors is notified to elect the Mayor, the Deputy Mayor, the Standing and the Special Consultative Committees and transact any other business.

(2) The meeting of the Corporation called under Sub-section (i) shall be presided over by the Officer calling the meeting for the purpose of conducting the election of the Mayor and the Deputy Mayor :

Provided that the presiding officer shall have no right to vote at such meeting and in case of equality of votes, the result shall be decided by lots."

This section defines what is the first meeting after general election. It is, therefore, clear that a Revenue Commissioner or in his absence his representative not below the rank of a Collector in the case of the first general election and the Commissioner in the case of every subsequent election shall call the first meeting of the Corporation as soon as the election and selection of the councillors is notified and the purpose of this meeting will be to elect the " Mayor, Deputy Mayor, the Standing and the Special Committees and transact any other business. This section therefore clearly provides that this meeting which is called as the general meeting for purposes of election of Mayor, Deputy Mayor or Standing Committee has to be called either by the Revenue Commissioner or in his absence a representative of his not below the rank of Collector and this meeting has to be called after the election and selection of the councillors has been notified. This, therefore, clearly shows that the meeting for election of Mayor, Deputy Mayor or the Standing Committee could not have been called by the Mayor but could only be called by the Revenue Commissioner and it is, therefore, clear that the meeting called by the Mayor on 26-3-1984 was not held because it was realised that this meeting could only be called by the Revenue Commissioner and therefore the meeting held on 31-3-1984 convened on notice

from the Revenue Commissioner in accordance with Section 28 provided to elect the Mayor, Deputy Mayor and the Standing Committee.

Section 23 of the Municipal Corporation Act reads :

"23. Mayor and Deputy Mayor.-- (1) The Corporation shall in accordance with the rules framed by Government in this behalf at its first meeting each year elect

(a) a Mayor from its councillors or from other persons residing within the limits of the Corporation possessing the qualifications for election as councillors u/s 16 and not disqualified under Sub-section (i) of Section 17 or any other provision of this Act;

(b) a Deputy Mayor from among its councillors; to hold office from the date of election until the first meeting after the general election.

Explanation.-- The word "year" in this section means a period of twelve months commencing from the date of first meeting after the general election.

(2) If any vacancy occurs in the office of Mayor or Deputy Mayor, the Corporation shall, as soon as may be after the occurrence of such vacancy elect a councillor or a person eligible to be a Mayor or Deputy Mayor as the case may be to fill such vacancy, and the Mayor or Deputy Mayor so elected shall continue in office for the unexpired term of his predecessor.

(3) Every election of the Mayor or a Deputy Mayor shall be notified by the Government in the Gazette.

(4) Any councillor or a person, as the case may be, who ceases to be Mayor or Deputy Mayor shall be eligible for further election to either office.

(5) The Deputy Mayor may resign his office at any time by notice in writing to the Mayor and the Mayor may resign his office at any time by notice, in writing to the Corporation.

(6) The Mayor who is not a councillor shall, unless otherwise expressly provided, be deemed to be a councillor for all purposes of this Act during the period he holds the office of Mayor."

Sub-Section (i) of this section talks of first meeting each year and it provides for election of Mayor or Deputy Mayor by the councillors elected and selected in the first meeting each year. This section also provides that a Mayor and Deputy Mayor so elected will hold office from the date of election until the first meeting in the next following year and the Explanation to this section says that the year in this section means a period of twelve months commencing from the date of first meeting after the general election. It is, therefore, clear that the Mayor and Deputy Mayor shall be elected every year in the first general meeting and it is also clear that the Mayor and the Deputy Mayor so elected shall hold office from the date of election until the first meeting in the following year. A reading of this section, therefore, clearly provides that the meeting for election of Mayor and

Deputy Mayor must be the first meeting in the next year. It is clear that after the general election in 1983 the first general meeting to elect Mayor and Deputy Mayor was held on 26-3-1983 and therefore the year expired on 25-3-1983 and the next year therefore commenced from 26-3-1984. In view of the language of Section 23 therefore the Mayor and the Deputy Mayor ought to be elected in the first meeting held in the year commencing from 26-3-1984 and it is clear that these elections were held in the meeting of 31-3-1984 which was the first meeting in the year commencing from 26-3-1984. Under these circumstances, therefore, it could not be said that Sub-section (2) of Section 422-A became operative.

Section 422-A reads :

"422-A. Dissolution of Corporation in certain circumstances. If -

(i) at any time due to a large number of vacancies in the Corporation, either simultaneous or in quick succession, the number of councillors becomes less than fifty per cent of the number of councillors determined u/s 10; or

(ii) in any year the Corporation fails to elect a Mayor and Deputy Mayor at its first meeting as required by Section 23, or election could not take place on any other account; or

(iii) in any year the Corporation fails to elect, at its first meeting members of the standing committee as required by Section 38, or election could not take place on any other account;

the Corporation shall stand dissolved -

(a) in the case of (i) above, on the date on which the number of councillors becomes less than fifty per cent of the number of councillors determined u/s 10:

(b) in case of (ii) and (iii) above, on the date immediately following the date on which a period of twelve months specified in the Explanation to Sub-section (i) of Section 23 expires :

Provided that where prior to the commencement of the Madhya Pradesh Municipal Corporation (Second Amendment) Act, 1973, any of the events specified above has already occurred in any Corporation, then such Corporation shall stand dissolved on such commencement.

Clause (ii) of this section provides that if in any year the Corporation fails to elect a Mayor or Deputy Mayor at its first meeting as required u/s 23, then only Section 422-A becomes operative. That means, the Corporation shall stand dissolved. This Clause (ii) therefore contemplates that election of Mayor and Deputy Mayor at the first meeting ought to be held in accordance with Section 23. As discussed earlier, according to Section 23 the election of Mayor and Deputy Mayor should be held in the first meeting each year. As discussed earlier, the first meeting in the year commencing from 26-3-1984 is the meeting held on 31-3-1984 and as the Corporation elected its Mayor and Deputy Mayor in this

meeting on 31st March 1984, it is clear that Clause (ii) of Section 422-A is not attracted.

Similarly, Section 38 provides for the election of the members of the Standing Committee. Section 38 reads:

"38. Election of Standing Committee .-

(1) The Corporation shall, at its first meeting each year, elect ten of its members of the Standing Committee.

(2) The term of office of the Standing Committee shall be one year.

(3) Any councillor who ceases to be a member of the Standing Committee shall be eligible for re-election.

(4) In this section, the word "year" shall have the same meaning as is assigned thereto in the Explanation to Sub-section (i) of Section 23."

The language used in this section "at its first meeting each year" is identical as is used in Section 23 and it is, therefore, clear that elections were held of the members of the Standing Committee and its Chairman and other Committees on 31-3-1984 are clearly within and as required u/s 38 of the Act. Under these circumstances, therefore, Clause (iii) of Section 422-A also is not attracted and if any one of the clauses of Section 422-A is not attracted, there is no question of its application by saying that the Corporation shall stand dissolved.

Learned counsel for the petitioner relied on Sub-clause (b) of Section 422-A wherein it has been provided that in case of Clauses (ii) and (iii) of this section the date immediately following the date on which the period of twelve months specified in Explanation to Sub-section (i) of Section 23 expires, and Explanation to Section 23(i) says that the word "year" in this section means a period of twelve months commencing from the date of first meeting after the general election. Thus, by use of this terminology, Sub-clause (b) indicates that the Corporation stands dissolved in case of Clauses (ii) and (iii) on the date immediately following the date on which a period of twelve month expired, as provided in the Explanation to Sub-section (i) of Section 23, and in this view of the matter it was contended that this date in the present case will be 26-3-1984. It was, therefore, contended that the Corporation shall stand dissolved on 26-3-84, and therefore it must elect the Mayor, Deputy Mayor and the Standing Committee on or before 26-3-84 itself.

It appears that what inference the learned counsel wants to draw from Sub-clause (b) is not correct. Clauses (ii) and (iii) clearly provide that Section 422-A is only attracted when a Corporation fails to elect a Mayor or Deputy Mayor as required u/s 23 or fails to elect a Standing Committee or any other committee as contemplated u/s 38, then alone this section becomes operative.

Sections 23 and 38 require that the election shall be held of the Mayor, Deputy Mayor and the Standing Committee at the first meeting each year. It is,

therefore, clear that election for this year could be held in the first meeting in the year commencing from 26-3-1984. Section 27 of the Municipal Corporation Act provides for holding of meeting at least once every month. This clearly shows that the apprehension indicated by the counsel for the petitioner that the first meeting each year may not be held for a long time is not justified. The first meeting is bound to be held within one month, i.e. the first month, as Section 27 required a Corporation to meet at least once a month- Thus, it is clear that Clause (ii) and (iii) of Section 422-A are only attracted if the Corporation fails to elect a Mayor or Deputy Mayor as contemplated u/s 23 or the Standing Committee as contemplated u/s 38 and it is only in that event that Section 422-A comes into operation. It is, therefore, clear that if the first meeting in the year commencing from 26-3-1984 is held on 31st March 1984, Section 422-A will not be attracted unless this Corporation fails to elect its Mayor, Deputy Mayor and Standing Committee in the meeting held on 31-3-1984 and it is not in dispute that this Corporation did hold the elections of Mayor, Deputy Mayor and the Standing Committee on 31-3-1984 and therefore it could not be contended that it failed to elect the Mayor, Deputy Mayor or the Standing Committee as required u/s 23 or Section 38.

What is provided in Sub-clause (b) of Section 422A is the date. It only indicates that in case Clause (ii) or Clause (iii) in Section 422-A comes into operation and the Corporation stands dissolved, this dissolution has to be effective from a particular date and according to Sub- Clause (b) the date as has been provided in Sub-clause (b) will be the date on which the dissolution will come into operation and therefore nothing more could be inferred from Sub-clause (b) in Section 422-A. Similar view has been taken in a decision in Misc. Petition No. 269 of 1984, decided on 10th September 1984 at Indore (Darshan Singh v. Indore Municipal Corporation.)

In this view of the matter, therefore, the first contention advanced by the learned counsel for the petitioner that the Standing Committee elected on 31-3-1984 is not a validly elected Standing Committee cannot be accepted.

It is not disputed that the Standing Committee by its resolution dated 24-7-1984 suspended the petitioner and it is also not in dispute that on 20th July 1984 the petitioner approached the State Government for an order u/s 421 and that the State Government by its order dated 31st July 1984 suspended the order of suspension passed against the petitioner.

It is also not in dispute that under Sub-section (2) of Section 421 the order of the State Government was communicated to the Corporation and the Corporation made a representation under Sub-section (3) of Section 421 and that the State Government after hearing the Corporation representatives and without hearing the petitioner withdrew the earlier order in exercise of power under Sub-section (4) of Section 421.

It was contended by the petitioner that when an order was made by the State

Government under Sub-section (1) of Section 421 in favour of the petitioner and subsequently when the State Government modified that order to the disadvantage of the petitioner in exercise of its power under Sub-section (4) of Section 421, principles of natural justice required that petitioner should have been afforded an opportunity of hearing. Learned Deputy Advocate General attempted to contend that the scheme of Section 421 did not contemplate such a hearing where as learned counsel for other respondents contended that: initial order u/s 421 was itself without jurisdiction but it is clear that the State Government exercising powers u/s 421 is acting in a quasi-judicial manner and it is now well settled that the principles of natural justice have to be followed as has been held in *The Siemens Engineering and Manufacturing Co. of India Ltd. Vs. The Union of India (UOI) and Another*, .

"it is essential that administrative authorities and tribunals should accord fair and proper hearing to the persons sought to be affected by their orders and give sufficiently clear and explicit reasons in support of the orders made by them. Then alone administrative authorities and tribunals exercising quasi-judicial function will be able to justify their existence and carry credibility with the people by inspiring confidence in the adjudicatory process."

The same has been the view of a Division Bench of this Court in *Moolchand and Another Vs. Indore Municipal Corporation and Another*, :

"Apparently, therefore, when the State Government acts u/s 421 of the Act, it is expected to follow the principles of natural justice."

In this view of the matter, as the State Government has modified the order passed on 31-7-1984 without affording an opportunity of hearing to the petitioner it could not be maintained and in this view of the matter, therefore, it is not necessary for us to go into the question about the jurisdiction of the State Government u/s 421(1) at this stage.

The petition is, therefore, partly allowed. The order passed by the State Government on 2-8-1984 withdrawing or modifying its order passed on 31-7-1984 is hereby quashed and it is directed that the State Government after affording an opportunity of hearing to the petitioner shall proceed to pass an order under Sub-section (4) of Section 421 in respect of the order, of suspension of the petitioner.

In the circumstances of the case, parties are directed to bear their own costs. Security amount deposited by the petitioner be refunded to him.