
(2009) 07 CHH CK 0021
In the Chhattisgarh High Court
Case No : Writ Petition (C) No. 3108 of 2009

Hemant Katakwar

APPELLANT

Vs

State Election Commission and Another

RESPONDENT

Date of Decision : 03-07-2009

Acts Referred:

Chhattisgarh Municipal Act, 1961 — Section 32(B), 32(C)

Citation : (2009) 4 MPJR 41

Hon'ble Judges : S.K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S.K. Agnihotri, J.

Heard.

1. Challenge in this petition is to the order dated 29.05.2006 (Annexure P/1) whereby the State Election Commission, in exercise of its power under provisions of section 32-C of the Chhattisgarh Municipalities Act 1961 (for short "the Act, 1961/), has declared the petitioner disqualified for contesting the election for next five years.

2. Admittedly, the petitioner contested the election for the post of President. Municipal Council. Baloda. The result of the election was declared on 19.12.2004. Section 32-B of the Act, 1961 provides for lodging of account of election expenses within a period of 30 days from the date of declaration of the result. The said requirement is mandatory as there is no provision for grant of relaxation or condonation of delay in lodging of account of election expenses. The petitioner lodged his account of election expenses on 04.02.2005 after a delay of 15 days. Section 32-C which reads as under, provides for disqualification if a candidate has failed to lodge account of election expenses within time and manner required under the Act.

32-C. Disqualification for failure to lodge account of election expenses. - If the State Election Commission is satisfied that a person -

(a) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act; and

(b) has no good reason or justification for the failure, the State Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for being chosen as, and for being a member of the Municipal Council or Nagar Panchayat, as the case may be, for a period of five years from the date of order

3. The petitioner has failed to lodge account of election expenses within time and has further not submitted any explanation for the delay, learned counsel appearing for the petitioner submits that the petitioner was not aware of the requirement of law and as such, it could not be lodged in time.

4. Be that as it ay, if a candidate who has filed nomination for contesting election for the post of President, is not aware of the legal provisions, he cannot be given benefit of ignorance of law and as such, the order impugned herein does not warrant any interference.

5. Even otherwise, there is an inordinate and unexplained delay of three years from the date passing of the impugned order i.e. 29.05.2006 till filing of this petition on 18.6.2009. Thus, at this stage, no relief can be granted to the petitioner, (See; Chandra Bhushan and Another Vs. Deputy Director of Consolidation (Regional), U.P. and Others, , Rabindranath Bose and Others Vs. The Union of India (UOI) and Others, ; Ramchandra Shankar Deodhar and Others Vs. The State of Maharashtra and Others, , State of M.P. and Others Vs. Nandlal Jaiswal and Others, . Chairman, U.P. Jal Nigam and Another Vs. Jaswant Singh and Another, , Yunus (Baboobhai) A Hamid Padvekar Vs. State of Maharashtra through its Secretary and Others, , Tridip Kumar Dingal and Others Vs. State of West Bengal and Others, .

6. This Court in Smt. Shashibala Gandhrala vs. State of Chhattisgarh & Others, WP (S) No. 7222 of 2006 on 3-1-2007 observed that ""the cause of action arose on 6-6-1995, when the communication was sent by the State Government to the authorities for grant of revised pay-scale. The petitioner has not taken any steps ever since till these petitions were filed in December. 2006 and remained tardy and indolent. This belated approach would certainly cause hardship and inconvenience to other side."

7. Applying the well-settled principles of law to the facts of the case on hand, this petition deserves to be and is accordingly dismissed.