
(1965) 04 P&H CK 0028

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 29 of 1965

Hukam Singh Kundan Singh

APPELLANT

Vs

Ch. Ram Narain Singh and Others

RESPONDENT

Date of Decision : 20-04-1965

Acts Referred:

Constitution of India, 1950 — Article 14

Punjab Agricultural Produce Markets Act, 1961 — Section 15, 3(5), 47

Citation : AIR 1966 P&H 139 : (1965) 2 ILR (P&H) 642

Hon'ble Judges : S.S. Dulat, J;D.K. Mahajan, J

Bench : Division Bench

Advocate : Ram Sarup and Surinder Sarup, for the Appellant; H.L. Sibal S.C. Sibal, M.M. Punchhi for Respondent No. 1, L.D. Kaushal, Deputy Advocate-General and P.R. Jain, for Respondents Nos. 2 to 4, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Dulat, J.—The appellant, Hukam Singh, was a member of the Market Committee at Rewari set up under the Punjab Agricultural Produce Markets Act, 1939. He was removed from that office by the State Government on account of misconduct u/s 11 of that Act. The order of the State Government was made on the 16th of June 1958. The Act of 1939 was repealed by the Punjab Agricultural Produce Markets Act, 1961, which Act replaced the previous Act. Elections to the Market Committee, Rewari, under the new Act were held during August 1963 and the appellant stood for election. An objection was taken that the appellant was disqualified on account of his removal for misconduct but that objection appears to have been raised after the appellant's nomination had actually been accepted by the Returning Officer. Then followed the election at which the appellant was declared successful. One of the defeated candidates--Ram Narain Singh--thereupon brought a writ petition to this Court under Article 226 of the Constitution challenging the legality of the appellant's election. The ground taken was that since the appellant had been removed from membership of the Market Committee on account of misconduct, he was ineligible to seek election

under the Act of 1961 and his election was, therefore, unlawful. The writ petition was heard by Harbans Singh, J., sitting alone and the argument raised against the appellant's election prevailed, the learned Judge holding that the appellant was not eligible for election to the Market Committee under the Punjab Agricultural Produce Markets Act, 1961. On this view the petition was allowed by the learned Judge and the election of the appellant was set aside. Hence the present appeal under Clause 10 of the Letters Patent.

2. Mr. Ram Sarup in support of the appeal points out that the previous Act of 1939 and the Act now in force since 1961 are not identical in their provisions which of course is so. The real resemblance and the only relevant one consists in Section 11 of the old Act which empowered Government to remove any member if that member was in Government's opinion guilty of misconduct or neglect of duty, and Section 15 of the new Act which similarly enables the State Government to remove any member if in its opinion he is guilty of misconduct or neglect of duty. These two provisions are identical in their content. The learned Single Judge has founded his conclusion on this similarity and not on the ground of any general similarity in the other provisions of the two Acts. What the Act of, 1961 says quite clearly is that no person shall be eligible to stand for election to a Market Committee" if he has incurred any of the disqualifications mentioned in Sub-section (5) of Section 3 and one of these contained in Clause (c) is that he "has been removed under Sub-section (7) or Section 15". The only question, therefore, is whether the appellant was removed u/s 15 of the present Act of 1961. Before the learned Single Judge it was suggested quite seriously that since the appellant was removed under the provisions of the earlier Act of 1939, it could not be said that he was removed u/s 15 of the present Act of 1961. The argument did not find favour with the learned Single Judge because Section 47 of the Act of 1961 says that, in spite of the repeal of the previous Act of 1939, "everything done and every action taken under the repealed Act" shall be deemed to have been done or taken under the new Act. In view of this provision, that argument is not so seriously pressed before us by Mr. Ram Sarup. There is no doubt that the removal of the appellant for misconduct, although it in fact took place under the Act of 1939, is in law to be taken to have been made under the Act of 1961, Section 15. There is, therefore, no escape from the conclusion that the appellant had incurred the disqualification mentioned in Sub-section (5) of Section 3 of the Act of 1961 and that operated against his capacity to stand for election as a member of the Market Committee.

3. Mr. Ram Sarup then says that this provision concerning disqualification on the ground of removal of the appellant for misconduct is so harsh in its effect that it should be held unconstitutional on the ground that it offends against Article 14 of the Constitution. The argument is somewhat involved but in substance comes to this that because elected members in other Local Bodies like Municipal Committees, even if they are removed for misconduct, incur disqualification for a stated number of years while under the Punjab Agricultural Produce Markets Act of 1961 the disqualification would remain in force for ever, there has been

discriminatory treatment accorded to persons like the appellant by the Punjab Agricultural Produce Markets Act and it should be struck down. It is not, however, clear how membership of a Market Committee can be equated with membership of a Municipal Committee, as, on the face of it, the two offices have nothing essentially in common and it is impossible to suggest, that the Legislature ought to have treated members of a Municipal Committee in the same manner as members of a Market Committee. It is not, therefore, right to say that in providing for this particular disqualification against the appellant, he and persons like him have been singled out for discriminatory treatment, since the situation of facts in their case and the case of members of other Local Bodies is not identical. Nor is it possible to accept learned counsel's suggestion that just because the effect of the disqualification seems to be severe, it can be said that the provision embodying it could not have been enacted by the Legislature. No suggestion is in fact made against the competence of the State Legislature to have enacted the particular provision.

4. Finally, Mr. Ram Sarup suggests that we could, and perhaps should, read the provision in such a way as to limit the period of disqualification to a particular period of time. It is impossible for us to do so without either adding a lot of words to the Act or doing other violence to its plain language. As the Punjab Agricultural Produce Markets Act, 1961, stands, it is clear that the appellant had incurred a disqualification which made him ineligible for election to the Market Committee and it is, in the circumstances impossible for us to interfere with the decision of the learned Single Judge setting aside the appellant's election. This appeal must, therefore, fail and I would dismiss it and make no order as to costs in the circumstance.

D.K. Mahajan, J.

5. I agree.