
(2008) 11 P&H CK 0108
In the Punjab And Haryana At Chandigarh

Inderjeet Singh

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 12-11-2008

Acts Referred:

Haryana Co-operative Societies Act, 1984 — Section 28(3)

Citation : (2009) 153 PLR 413 : (2009) 5 RCR(Civil) 654

Hon'ble Judges : Satish Kumar Mittal, J;Jaswant Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—The petitioner, being a member of the Mundi Primary Agriculture Co-operative Societies Limited, Village Mundi-respondent No. 5 (hereinafter referred to as "the respondent Society") contested the elections of the managing Committee of the respondent Society held on 3.10.2007, against the seat meant for agriculturist category. The Managing Committee of the respondent Society consists of 7 members. As per clause 34 of its Bye Laws, out of the 7 elected members of the Managing Committee, 5 will be agriculturist members and 2 will be non-agriculturist members. Further, as per the first proviso to Sub-section (3) of Section 28 of the Haryana Co-operative Societies Act, 1984 (hereinafter referred to as "the Act"), at least one member should be from the Scheduled Caste category and one from women. 16 candidates contested the elections as agriculturists, 3 women and 2 candidates from the Scheduled Caste category also contested the elections.

2. After the elections, the Returning Officer declared 5 candidates namely Ramphal (226 votes), Raj Kumar (191 Votes), Vijay Singh (189 Votes) Shamsheer Singh (182 Votes) and Inderjeet Singh - petitioner herein (141 Votes) elected from the category of agriculturists, Smt. Santosh Devi, who had secured 253 votes, was declared elected from the category of women and another women, namely Smt. Shakuntla - respondent No. 7 herein, was declared defeated though she secured 223 votes. Abhay Singh, who secured 59 votes was declared elected

from the category of Scheduled Cast.

4. Respondent No. 7 questioned the election of the petitioner by filing an election petition u/s 102/103 of the Act. The Deputy Registrar, Co-operative Societies, Gurgaon, vide his order dated 6.11.2007, accepted the said election petition; declared the election of the petitioner as illegal and declared respondent No. 7 as elected candidate, while observing as under:

After hearing the arguments of all sides, I understood that as per the new amendment in the Haryana Co-operative Societies Act, 1984, one woman member is necessary to be elected but it does not mean that in the Managing Committee two ladies cannot be kept. As per rule if two women candidates got maximum votes then both these women are entitled to be the members of Managing Committee. On the basis of that one lady has already got maximum votes and she is elected in the Managing Committee and ignoring the other woman is not as per law. If two women got maximum votes, then both can be elected as members of the Managing Committee. It is also mentioned here that in this election no seat/zone was reserved, nor the woman applied under reserved category. In this manner, in the present election the applicant even after getting 223 votes and Inderjit Singh got 141 votes the decision of declaring the applicant as defeated candidate and of declaring Inderjit Singh as elected candidate is totally wrong.

The aforesaid order of the Deputy Registrar has been upheld by the Appellate Authority as well as by the Financial Commissioner, Co-operation Department, Haryana, vide their orders dated 10.1.2008 and 13.8.2008, respectively. Hence, this petition has been filed by the petitioner.

4. Learned Counsel for the petitioner submits that the petitioner contested the election against 5 seats, meant for the agriculturists, and respondent No. 7 contested the election in the category of women. She belongs to the category of non-agriculturists. Therefore, the Returning Officer has rightly considered her candidature against the one seat, which was to be filled up by a woman from the category of non-agriculturists. The contention of the learned Counsel is that 2 seats, meant for non-agriculturists, are to be filled up by a Scheduled Caste and a woman. Therefore, one Smt. Santosh Devi, who had secured 253 votes, was declared elected in the category of the non-agriculturist women and one Abhay Singh, a Scheduled Caste candidate, who secured 59 votes, was declared elected against another seat in the category of non-agriculturists. The whole argument of learned Counsel for the petitioner is that as far as 5 seats, meant for agriculturists, are concerned, those are to be filled up from the candidates belonging to the said category and the remaining 2 seats, which are meant for non-agriculturists, are to be filled up from the non-agriculturists, whereas the woman and the scheduled caste, who are to be elected in view of clause 34 of the Bye Laws of the respondent Society and first proviso to Sub-section (3) of Section 28 of the Act, will occupy the 2 seats, meant for the category of non-agriculturists, and they cannot be considered as elected members against the 5

seats, meant for the category of agriculturists, even though they secure more votes than the votes secured by the last candidate in the category of agriculturists.

5. The contention, raised by learned Counsel for the petitioner, cannot be accepted. In our opinion, the courts below have rightly set aside the election of the petitioner, while declaring him defeated, as he has secured only 141 votes and declared respondent No. 7 elected as she has secured 223 votes. As per the first proviso to Sub-section (3) of Section 28 of the Act and clause 34 of the Bye Laws of the respondent Society, out of 7 members of the Managing Committee, 5 members will be from the category of the agriculturists and 2 from the category of non-agriculturists. Out of 7 members, at least one member must be a Scheduled Caste and one member must be a woman. Under the rule and the proviso, there is no requirement that these 2 members i.e. Scheduled Caste and woman must be from the agriculturist or non-agriculturist categories. These 2 reserved candidates are required to be given two seats in the Managing Committee, even though they secure less votes than the 7 members who secure highest votes. Out of the 7 members, whosoever secures less votes, whether he belongs to agriculturist or non-agriculturist category, he has to give his place to these 2 reserved candidates. In the instant case, 5 members belonging to the category of agriculturists have secured 226 votes (Ramphal), 191 Votes (Raj Kumar), 189 votes (Vijay Singh), 182 Votes (Shamsher Singh) and 141 votes (Inderjeet Singh petitioner). In the category of non-agriculturists, 2 women, namely Santosh Devi and respondent No. 7 Shakuntla have secured 253 and 223 votes respectively. Therefore, both these candidates, who have secured maximum votes in the category of non-agriculturists have to be declared elected. As far as Abhay Singh, a Scheduled Caste candidate, who has secured only 59 votes, is concerned, he is to be declared elected because of the reservation. He will replace the petitioner, who having secured only 141 votes was the last candidate among the 5 members in the category of agriculturists. In our opinion, in the Managing Committee, more than one woman can be elected as member. They may be from agriculturists or non-agriculturists category, if they have secured more votes. Therefore, in the present case 2 women, namely Santosh Devi and Shakuntla have been rightly declared elected for the 2 seats, meant for non-agriculturists. As far as the election of Abhay Singh, who secured maximum votes out of the Scheduled Caste candidates, is concerned, he has to be elected against the candidate, who is at the bottom in the list of first 7 candidates. A similar view has been taken by a Division Bench of this Court in *Sunder Singh and Others Vs. State of Haryana and Others*, , while interpreting the Punjab Gram Panchayat Act, 1953 and the Haryana Gram Panchayat Election Rules, 1971. The said decision deals with the similar kind of reservation for the Scheduled Caste and women. In this regard, it was held that if it is found that the requisite number of panches who have secured highest votes including one or two Scheduled Castes Panches, as the case may be, then the persons securing highest number of votes would be declared elected. In case one or two

Scheduled Caste Panches, as the case may be, do not come amongst the successful candidates, then out of the Scheduled Caste Candidates, whosoever has secured the highest number of votes would be declared elected to make up the minimum number of Scheduled Castes Panches required under the Rules. Even more Scheduled Caste candidates, if they secure highest number of votes, can be declared elected.

6. Thus, in view of the above, we do not find any illegality in the impugned orders, passed by the authorities below.

Dismissed.