

(2019) 11 P&H CK 0068

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. PIL No. 221 Of 2019 (O&M)

Jagmohan Singh Bhatti

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 16-11-2019

Acts Referred:

Constitution Of India, 1950 — Article 164

Citation : (2019) 11 P&H CK 0068

Hon'ble Judges : Ravi Shanker Jha, CJ;Rajiv Sharma, J

Bench : Division Bench

Advocate : Jagmohan Singh Bhatti, B.R.Mahajan, Deepak Balyan

Final Decision : Dismissed

Judgement

Ravi Shanker Jha, CJ

Heard the petitioner in person at length.

This petition has been filed by the petitioner assailing the appointment and administering of oath to respondent No.7 as Deputy Chief Minister of the State of Haryana. The petitioner submits that under Article 164 or any other provision of the Constitution of India the post of Deputy Chief Minister is not envisaged and in such circumstances, administering of oath to respondent No.7 as Deputy Chief Minister of the State is unconstitutional and contrary to law.

The petitioner while taking this Court through several decisions of the Supreme Court submits that the Constitution is the paramount law and has to be followed. It is urged that the judiciary in such a case has to step in being the guardian of the Constitution to strengthen public confidence and stop the elected representatives from manipulating the Constitution and constituting the post(s) like Deputy Chief Minister and others for the purposes of political settlements which is not permissible under the Constitution. The petitioner has relied upon the decision of the Supreme

Court in *Kathi Raning Rawat v. State of Saurashtra*, 1952 AIR SC 123 as well as the decisions of this Court rendered in *Hardwari Lal v. Ch. Bhajan Lal* 1993 AIR (Punjab) 3; *Jagmohan Singh Bhatti v. Union of India and others* 2016-4, Punjab Law Reporter, 110 and a decision of Meghalaya High Court in case *Shri Madal Sumer v. State of Meghalaya and others* 2017 SCC Online (Megh.) 342.

Learned Advocate General, Haryana appearing for the State of Haryana has submitted that this issue has already been considered by a series of decisions. It is submitted that Supreme Court in the case of *K.M.Sharma v. Shri Devi Lal* 1990(1) SCC 438 has upheld the appointment of Chaudhary Devi Lal as Deputy Prime Minister of India. Learned Advocate General has also placed before this Court a decision of Karnataka High Court in the case of *P.Venkatesh v. State of Karnataka* 1993 ILR (Karnataka) 2226 relating to an identical situation of appointment of Deputy Chief Minister in Karnataka. The decision rendered in *Devidas son of Venkatrao Pawar v. Shri Gopinath Mundhe and others* 1996 AIR (Bombay) 1, is cited which again relates to the appointment of Deputy Chief Minister. The decision rendered by Allahabad High Court in *Nirdesh Kumar Dixit v. Renuka Choudhary* 2005(2) ESC 978, has been placed before this Court which relates to appointment of State Ministers which was assailed on the ground that the Constitution does not envisage any such posts as State Ministers and the decision in case *Dr. Sekhar. S.Iyer, s/o late B.V.Seshadri Iyer v. Chief Secretary Government of Karnataka and others* 2018(5) KantLJ 810, has also been relied upon which again deals with the case of appointment of Deputy Chief Minister in Karnataka. It is submitted by the learned Advocate General that in all the aforesaid cases similar contentions as raised in this petition were considered and rejected.

Having heard the petitioner at length and having perused the judgments placed before us, while we agree with the submissions of the petitioner that the Constitution is the primary law of country and has to be followed by all and that the judiciary is entrusted with the all important role of the guardian of the Constitution. However, as far as the challenge to the appointment of Deputy Chief Minister of the State is concerned, it is evident from a perusal of the decision of the Supreme Court rendered in the case *K.M.Sharma v. Shri Devi Lal* (supra) as well as the decision of Karnataka High Court in the case of *P.Venkatesh v. State of Karnataka* (supra) and Bombay High Court in the case of *Devidas son of Venkatrao Pawar v. Shri Gopinath Mundhe* (supra) that the Supreme Court and various High Courts while dealing with the challenges to the appointment of Deputy Prime Minister of India and Deputy Chief Minister have held that mere description of a person as Deputy Prime Minister of India or Deputy Chief Minister of the State does not amount to violation of the Constitution nor does it confer upon him any extra powers under the Constitution and in such circumstances giving oath to a person as Deputy Chief Minister is not invalid as the status of a person continues to remain as the Minister.

As the law in this regard has already been laid down by the Supreme Court

followed by various High Courts in the above mentioned cases with which we respectfully agree and has been extensively considered and decided rejecting identical issues as raised by the petitioner, we do not find any merit in the petition and therefore, the same is accordingly dismissed.