
(1965) 05 P&H CK 0068
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 412 of 1965

Kanwar Raj Dular Singh

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 12-05-1965

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1965) 05 P&H CK 0068

Hon'ble Judges : P.C. Pandit, J

Bench : Single Bench

Advocate : M.R. Sharma, for the Appellant; J.N. Kaushal, General and Mr. M.R. Agnihotri, for the Respondent

Final Decision : Dismissed

Judgement

P.C. Pandit, J.—This is a petition under Articles 226 and 227 of the Constitution filed by Kanwar Raj Dular Singh praying that the election of the Panchayat Samiti, Sangrur, held on 22nd January, 1965 be quashed and the State of Punjab and the Deputy Commissioner, Sangrur, respondents 1 and 2, be restrained from holding elections to the said Panchayat Samiti till 28th August 1966.

2. According to the allegations of the petitioner, he had been elected as Sarpanch of Gram Panchayat, Channo, District Sangrur. He contested the election of Primary Members for the Panchayat Samiti, Sangrur, held in January 1965. At the time of counting of votes, there was a tie amongst Jagir Singh, Karnail Singh, respondents 3 and 4, the petitioner and one Surain Singh and, as a result, lots were drawn and respondents 3 and 4 were elected.

3. This election is being challenged by the learned counsel for the petitioner on two grounds. Firstly, it was contended that the electoral roll on the basis of which this election took place was not prepared and brought up-to-date according to Rule 3 of the Punjab Panchayat Samitis (Primary: Member) Election Rules, 1961 (hereinafter referred to as the Rules) inasmuch, as-

(a) the election of Gram Panchayat, Mangwal had been held in December 1963. This election was later on successfully challenged and on re-election Sarvshri Mohinder Singh, Sarwan Singh. Teja Singh and Srat. Bhajan Kaur could not be re-elected as. Panches of the newly constituted Gram Panchayat. In their place, Sarvshri Baohna Ram, Joginder Singh, Sant Singh and Smt. Sham Kaur were elected. In spite of this fact, the voters" list used for the present election showed the Panels, originally elected;

(b) One Jagdish; Singh had been elected as a Panch of Gram Panchayat, Bakhtara, but his name did not appear in the said list; and.

(c) Sher Singh, Sarpanch, and Gurbachan Singh, Panch, had resigned from the Gram Panchayat, Kular Khurd. and in their place, Inder Singh and Sukhchain Singh were elected, but their names did not appear in the list.

There is no force in this contention. According to the return filed by the State, the electoral rolls were prepared and their preliminary publication was made and objections invited under Rule 3(1) of the Rules by sending electoral rolls and notices to all concerned as required in the said Rule. In response to the said preliminary publication, only eight objections were received, which were decided by the Block Development sad Panchayat Officer, Sangrur, and sent to the office of the Deputy Commissioner, Sangrur, for making corrections in the electoral rolls. These corrections were, accordingly made in the said rolls, which were finally; published under Rule 3(3). The applications received later on for corrections/inclusion of names in the finally published electoral rolls were duly considered and decided under Rule 3-A. This election was conducted on the basis of the electoral roll as amended up - to date. It was admitted that the election of Gram Panchayat, Magwal, which was held on 31st December, 1963, was challenged and on re-election Sarvshri Bachna Ram, Joginder Singh, Sant Singh, Hazura Singh, Sucha Singh, Tarlochan Singh. Puran Singh and Smt. Sham Kaur were elected. The names of Panches, who applied for inclusion of their names in the fipal electoral roll were entered on receipt of their applications and after observing formalities under Rule 3-A. The voters" list was, accordingly, amended and sent to the Presiding Officers concerned. Further, all the Presiding Officers were also supplied Amended up-to-date voters" list on 8th January, 1965. As regards Jagdish Singh, he never applied for the inclusion of his name under Rule 3-A and, therefore, his name was not included in the Anal electoral roll. The allegation regarding Inder Singh and Sukhchain Singh of Gram Panchayat, Kular Khurd, was denied and it was statpd that their names were included in the voters" list, which was used at the polling-station. From the return filed by the State, it is quite apparent that no irregularity was committed in the preparation of the electoral roll.

4. It was then contended that after the coning into farce of the Punjab Panchayat Samitis and Zila Parishads Act, 1961 (hereinafter referred to as the Act), elections to the Panchayat Samiti, Block Sangrur) were held and the result of these elections was declared by a notification dated 28th August, 1961,

published in the official, gazette dated.6th September, 1961. After these elections, the Panchayat Samiti had been functioning in accordance with law. The Punjab Panchayat Samitis and Zila Parishads (Amendment) Act, 1964 (hereinafter referred to as the Amending Act) received the assent of the Governor on 2nd May, 1964. By this Amending Act, section 113-A was inserted in the Act. This section reads-

S. 113-A. Power of Government to hold general election and co-option of members of Panchayat Samitis and Zila Parishads.-(1) Notwithstanding anything contained in this Act or the rules made thereunder, the Government may by notification direct that, by such date as may be specified in the notification-

(i) a general election of primary members of all Panchayat Samitis and co-option of Members to all Panchayat Samitis; and

(ii) a general election of the Members of the Zila Parishads referred to in clause (a) of sub section (3) of section 86 and co-option of members of all Zila Parishads referred to in clause (e) of that section; shall be held and made in the State of Punjab; and different dates may be appointed for different areas or for different Panchayat Samitis or Zila Parishads or groups thereof.

(2) As soon as a notification is issued under sub-section (1), the Deputy Commissioner and other authorities concerned shall take all necessary steps for such election and co-option under and in accordance with the provisions of this Act and the rules made thereunder.

(3) The power of holding a general election or making a co-option under this section may be exercised by the Government from time to time so that a period of not less than five years shall intervene between any two consecutive elections or co-options.

By virtue of sub-section (3) of this section, no election to the Panchayat Samiti, Sangrur, could be held until a period of not less than five years had intervened between the first election held on 28th August, 1961. As such, this election could not be held before 28th August, 1966. The present election according to the learned Counsel, having been held on 22nd January, 1965 was not a valid one and the same should, therefore, be quashed.

5. This contention is also without any merit. A bare reading of the provisions of section 113-A, mentioned above, would show that under sub-section (1) the Government was empowered to hold a general election of Primary Members of Panchayat Samitis. Sub section (3) makes it clear that the period of not less than five years shall intervene between any two consecutive elections held under this section. The argument of the learned counsel for the petitioner is that the election held in August 1961 has also to be considered for calculating the period of five years mentioned in sub-section (3). This argument loses sight of the fact that the period of not less than 5 years has to intervene between two consecutive general elections held u/s 113-A as mentioned in the section itself.

The 1961 elections were undoubtedly not held u/s 113-A. The election which was held on 22nd January, 1965 would be the first general election under this section and the next election can only be held after a period of five years. One of the reasons why section 113-A Was introduced was that the term of office of Primary and Co-opted Members, which was three years u/s 8 of the Amending Act, but that does not mean that the terms of the persons, who were elected Primary Members u/s 8, as it originally stood, was also automatically increased to five years by the coming into force of the Amending Act. Only those persons, who will be elected as Primary Members in the general election held u/s 113-A, will hold the office for five years. In order to bring section 18. which had prescribed the term of office of the Chairman and Vice - Chairman of the Panchayat Samiti to be three years, in conformity with the amended section 8, an amendment was introduced in section 18 also by the Punjab Panchayat Samitis and Zila Parishads (Amendment) Act (3 of 1965) and their term of office was also increased to five years. Under these circumstances, the election held on 22nd January, 1965 was quite proper and legal.

6. It is also significant to mention that the petitioner himself contested the election held in January 1965 and did not raise any objection before the Authorities concerned that this election could not be held before August 1966 and having lost therein, he has filed the present writ petition. On this ground also, he is not entitled to any relief in these proceedings.

The result is that this petition fails and is dismissed. In the circumstances of this case, however, I will leave the parties to bear their own costs.