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**(1974) 04 RAJ CK 0018**

**In the Rajasthan High Court**

**Case No : Civil Miscellaneous Appeal No. 53 of 1973**

Madan Singh Baghela

APPELLANT

Vs

Gopal and Others

RESPONDENT

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**Date of Decision : 01-04-1974**

**Acts Referred:**

Rajasthan Municipalities Act, 1959 — Section 26(12)

**Citation : (1975) WLN 128**

**Hon'ble Judges : V.P. Tyagi, J**

**Bench : Single Bench**

**Final Decision : Dismissed**

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## **Judgement**

V.P. Tyagi, J.—This appeal has been filed u/s 46 of the Rajasthan Municipalities Act, 1959, and is directed against the order of the Tribunal (Munsiff Mngistrate), Dholpur, dated February 6, 1973, dismissing the election petition filed by the appellant against the respondent No. 1, who was declared elected to the Municipal Board, Dholpur.

2. During the pendency of this appeal, the Municipal Board, Dholpur has been superseded after its term had expired, and the respondent No. 1 Gopal Sarin is no more a member of the said Municipal Board.

3. The main ground on which the election of the respondent No. 1 Gopal Sarin was challenged by the appellant was that the respondent having incurred disqualifications u/s 26(12) of the Act was not competent to contest the election. Besides this ground, various other objections to the election were taken by the appellant including certain allegations regarding corrupt practice committed by the respondent No. 1 during the course of election.

4. Learned Counsel for the respondents submits that appeal has become infructuots as no effective relief can be granted by this Court to the appellant. Learned Counsel for the appellant has admitted that the Municipality has been supersede; but in the absence of any instructions from his client he is not in a

position to say whether the appeal has become infructuous because the decision by this Court on the question of corrupt practices may have an adverse effect on the rights of the respondent No. 1

5. So far as incurring of disqualification u/s 26(12) of the Act is concerned, the question has now assumed the form of academic interest, because, it is admitted by the parties that at present the respondent No. 1 has no interest of any nature in the Municipality which may go to disqualify him for being elected as a member of the Board in future.

6. I have carefully gone through judgment. The issue relating to corrupt practice is issue No. 5. The learned Tribunal has carefully considered the evidence that has been adduced by the petitioner-appellant to substantiate the charge of corrupt practice and after carefully considering the evidence a finding was recorded by the Tribunal that the petitioner appellant has failed to establish any of the 8 charges mentioned in schedule A to the petition. The learned Counsel for the respondents submits that no evidence worth the name has been led by the petitioner in support of the charges of corrupt practice, and, therefore, no useful purpose would be served by deciding this issue in appeal. Learned Counsel for the appellant, however, could not point out any material on the record which may go to substantiate the charge of corrupt practice. In this view of the matter, the appeal, even if decided on other issues on merits, would not in any manner benefit the petitioner.

7. Having regard to the fact that the term of the Municipal Board for which the respondent No. 1 was elected, had expired during the pendency of the appeal. The question involved in this appeal has become an academic interest, and, therefore, I do not propose to consider the fact whether or not the respondent No. 1 was disqualified u/s 26(12) of the Act, as the decision on merit on the issue relating to the disqualification u/s 26(12) would not in any way affect the rights of the parties in the present circumstances. Even if the decision of the Tribunal on the said issue is set aside it will not change the position of the parties. The appeal is, therefore, dismissed as it has become infructuous. No order as to costs.