

(1986) 12 SC CK 0053

In the Supreme Court Of India

Case No : S.L.P. (Civil) No. 14881 of 1986

Mohd. Karim Khan and Others

APPELLANT

Vs

Shyam Sunder Shrivastava and Others

RESPONDENT

Date of Decision : 12-12-1986

Acts Referred:

Madhya Pradesh Municipalities Act, 1961 — Section 328, 328(6), 337, 36, 6

Citation : (1988) JLJ 79

Hon'ble Judges : S. Natarajan, J;A.P. Sen, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. We are not inclined to interfere with the judgment of the High Court which discloses a sad state of affairs. The elections to the Municipal Council, Chhatarpur were last held in the year 1978 and in the election 18 members belonging to the Janata Party, 6 belonging to the Congress (1) party and 1 Independent member were returned. The elected body continued to function till April 11, 1981. Evidently, with the change of Government at the Centre and the State, there was infighting among the members and more than half of them resigned. In consequence, the State Government by a notification dated June 19, 1981 issued u/s 337 of the Madhya Pradesh Municipalities Act, 1961 dissolved the Municipal Council. Pursuant thereto, the State Government by an order dated July 21, 1981 appointed an Administrator u/s 328(6)(b) of the Act to discharge the duties and functions of the Council until the Council was reconstituted.

2. u/s 6 of the Act there is a duty cast on the State Government to hold the election to the new body before the expiry of the term of the existing Council, Furthermore, when a Council is dissolved u/s 337 of the Act, the provisions of Section 328 become attracted. It interdicts that the State Government may while dissolving or superseding a Council direct a fresh election to take place. In view of the fact that the last elections were held in 1978 it was the statutory duty of the State Govt. to hold fresh election before the expiry of four years. Instead of

taking steps to hold new elections, the State Government by a notification dated August 29, 1984 issued u/s 328 (6) (b) of the Act purported to replace the Administrator by a Committee of Nominated Members who are all members of the ruling Congress (1) party. Thereafter, the State Government issued two further notifications dated January 22, 1985 and August 29, 1986 u/s 328 (6) (b) of the Act. By the first of these, an Administrative Committee of 4 members was constituted and by the second, Petitioner No. 1 Mohd. Karim Khan was appointed to be the President thereof. The members nominated to the Administrative Committee as well as the President are all members of the party-in-power. The only justification pleaded by the State Government in the return filed before the High Court was that the Government felt that the administration of the Municipal Council should be in the hands of public men who command respect, instead of the Administrator. We may as well extract the relevant averments:

It is true that the Municipal Council was earlier administered by an administrator, Shri K.P. Rahi, but it was thought proper to constitute a committee of respectable citizens of Chhatarpur to run the administration of the Council.

It is not disputed that there are a number of political parties with their district units at Chhatarpur proper. But it is only the Cong. (1) who has influence and respect in the common masses. The Administrator was running the administration but in the interests of the common public it was thought proper that a committee of respectable citizens should be constituted and the municipal administration entrusted to such a committee.

After referring to the impugned orders, it was then asserted:

The nominated members are respectable citizens of Chhatarpur town. They enjoy respect in the public. The Committee is to continue till fresh elections are held.

3. The High Court rightly observes that u/s 36 of the Act, there was a duty cast on the State Government to hold the new elections and there was no justification whatever for not holding the elections for all these years. It further observes that the Deputy Collectors who had been appointed were satisfactorily discharging the functions and duties of the Council and there was no compelling reason for the Government to have constituted a Committee of Nominated Members belonging to the party-in-power unless it was for political gains. We fully endorse the observation of the High Court that if the Government was of the opinion that a committee of public men should be appointed to run the municipal administration, it could have taken as members public men with no political affiliations, or given representation to all the political parties. It must accordingly be held that the action of the State Government in issuing the impugned notifications u/s 328 (6) (b) of the Act constitutes flagrant abuse of power for ulterior purposes.

4. The SLP is accordingly dismissed. We direct that the State Government will comply with the directions made by the High Court forthwith and appoint an Administrator u/s 328 (6) (b) of the Act in place of the Committee of Nominated

Members and the Administrative Committee. We further direct, that the Collector shall complete the process of delimitation of wards, if any, as expeditiously as possible and in any event not later than June 30, 1987. The State Government shall thereafter take immediate steps to hold election to the Municipal Council, Chhatarpur.