
(2003) 12 DEL CK 0032
In the Delhi High Court
Case No : CW 8964 of 2003

Mr. Piyush Jain

APPELLANT

Vs

The Election Commission of India

RESPONDENT

Date of Decision : 19-12-2003

Acts Referred:

Conduct of Elections Rules, 1961 — Rule 10(3)
Constitution of India, 1950 — Article 329

Citation : (2004) 109 DLT 470 : (2004) 72 DRJ 642

Hon'ble Judges : Badar Durrez Ahmed, J

Bench : Single Bench

Advocate : Sugriv Dube, for the Appellant; P.R. Chopra, for the Respondent

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed, J.—The petitioner has filed this petition being aggrieved by the fact that allegedly the petitioner's name was not published according to alphabetical order in violation of Rule 10 (3) of the Conduct of Election Rules, 1961 in the recently concluded election to the Delhi Legislative Assembly in which the petitioner was a candidate in the 41-Gandhi Nagar Constituency. He was set up by the Jai Prakash Janata Dal Party.

2. The petitioner has alleged that the dummy ballot paper as well as the electronic voting machine indicated that the names were not printed in alphabetical order inasmuch as the candidates of the Indian National Congress and the Bhartiya Janata Party have been given precedence over the other candidates whereas, according to him, in terms of Rule 10(3) the entire list ought to have been prepared in alphabetical order. This plea of the petitioner is clearly untenable in view of the fact that Section 38 of the Representation of People Act, 1951, in reference to which Rule 10 has been made, itself permits the classification of candidates into three groups:-

1. Candidates of recognised political parties.

2. Candidates of registered political parties other than those mentioned in Clause 1 and

3. Other candidates.

It is clear that within each category or class the list of contesting candidates is to be published in alphabetical order and that has been done. Even Form 7A which is mentioned in Rule 10 (1) of the Conduct of Election Rules, 1961 indicates the same format providing for the aforesaid three different categories. A sample of the Form 7A has been filed along with the petition as Annexure P-III and is placed at page 17 of the paper book. It clearly shows that three classes have been named as indicated above and within these classes the names of the candidates have been arranged in alphabetical order. As such, there is no contravention of the provisions of the Representation of People Act, 1951 or the Conduct of Election Rules, 1961.

3. The other grievance of the petitioner is that the dummy ballot paper was made available to the petitioner just one or two days before the date of poll whereas, in law, a minimum ten days period is prescribed. This allegation of the petitioner is not borne out by the facts. Section 38 provides that on the last date of withdrawal of candidature itself, immediately after the period of withdrawal is over, the list of remaining candidates is to be published in the manner prescribed. The same was, in fact, published on 17.11.2003 well in advance of the date of poll which was 1.12.2003. This grievance of the petitioner is also unfounded and is, Therefore, rejected. If the petitioner has any further grievance with regard to the election it can only be challenged by way of an election petition as stipulated under Article 329(b) of the Constitution of India.

4. The writ petition has no merit and is dismissed. There will be no order as to costs.