
(1980) 11 MP CK 0008

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 517 of 1979

Munney Mian

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 17-11-1980

Acts Referred:

Constitution of India, 1950 — Article 226

Madhya Pradesh Municipal Corporation Act, 1956 — Section 1, 10, 442, 9

Citation : (1981) JLJ 754

Hon'ble Judges : G.P. Singh, C.J;U.N. Bhachawat, J

Bench : Division Bench

Advocate : Rakesh Johri with Anoop Choudhary, for the Appellant; M.V. Tamaskar, Government Advocate and Gulab Gupta, for the Respondent

Final Decision : Allowed

Judgement

G.P. Singh, C.J.—The petitioner is a citizen of Bhopal. He is registered as a voter at serial No. 607 of the voters list of Ward No. 33. The petitioner by this petition under Article 226 of the Constitution has prayed for many reliefs, but at the stage of hearing learned counsel for the petitioner has confined himself to the first relief claimed in the petition that a direction be issued to the State Government and the Administrator, Municipal Corporation, Bhopal, to take steps to hold election to constitute an elected Municipal Corporation within a reasonable period to be fixed by this Court. Notice for admission of this petition was issued to the respondents. Returns have been filed. The learned Government Advocate has appeared before us for respondents 1 and 2. The petition is heard on merits.

2. The Madhya Pradesh Municipal Corporation Act, 1956, was applied to Bhopal City by notification dated 25th August 1967 issued under subsection (3) of section 1 of the Act. As a consequence, the Municipalities Act applicable to Bhopal was repealed and the Municipal Council constituted under the said Act ceased to exist. The transitory provisions contained in section 442 of the

Corporation Act became applicable. The Government appointed an Administrator for administering the Corporation. Later on, we are informed, a Commissioner was also appointed. The elections for constituting the Corporation u/s 9 have not been held although 13 years have passed after application of the Act. Sub-section (2) of section 442 provides that the Administrator appointed by the Government shall take steps in connection with the preparation of the Municipal Electoral Roll and holding general ward elections in accordance with the provisions of the Act or the rules or byelaws made thereunder. The very fact that section 442 is a transitory provision and the duty is laid on the Administrator to take steps for the preparation of the electoral roll for holding general ward elections goes to show that there is a duty cast on the Government and the Administrator to hold elections as soon as possible for constituting the corporation u/s 9 read with section 10. Thirteen years can by no stretch of imagination be taken to be a reasonable time. The respondents have thus clearly not discharged the statutory duties laid on them under the Corporation Act. When a statute provides no date for holding an election, it has to be inferred that elections must be held within a reasonable time; and when the authority entrusted with the duty to hold elections abuses its discretion by not holding elections for inordinately long period, the Court can control its action by directing it to hold elections and by fixing a date for the same; (see *Ferris, Extraordinary Legal Remedies*, p. 386). In *Gopal Jairam v. State of Madhya Pradesh* 1950 NLJ 509 : AIR 1951 Nag. 181 Mudholkar, J., as he then was, issued a mandamus directing holding of election which was unduly delayed by the authorities concerned. That view was upheld by a Division Bench of this Court in *Mukutdhari v. State of M.P.* 1978 MPLJ 156. The learned Government Advocate has stated before us that because of pressure of census work no elections can be held till March 1981 and that a request to that effect has been made by the Central Government. The learned Govt. Advocate is, however, unable to state as to within what period the State Government will be able to hold the elections. Having regard to the steps that may be necessary to be taken after March 1981, in our opinion, one year would be a reasonable time thereafter for holding the elections. The elections, in our opinion, must be held before March 1982.

3. The petition is allowed. The respondents 1 and 2 are directed to hold elections for constituting the Bhopal Municipal Corporation u/s 9 of the Municipal Corporation Act, 1956 within March 1982. There will be no order as to costs of this petition.