

(2021) 01 SHI CK 0032
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 6342 Of 2020

Om Parkash

APPELLANT

Vs

State Of Himachal Pradesh & Others

RESPONDENT

Date of Decision : 04-01-2021

Acts Referred:

Himachal Pradesh. Panchayati Raj (Election) Rules, 1994 — Rule 28, 87
Himachal Pradesh Panchayati Raj Act, 1994 — Section 125

Citation : (2021) 01 SHI CK 0032

Hon'ble Judges : Tarlok Singh Chauhan, J; Jyotsna Rewal Dua, J

Bench : Division Bench

Advocate : Sudhir Thakur, Karun Negi, Ashok Sharma, Vinod Thakur, Vikas Rathore, Shiv Pal Manhans, Nand Lal Thakur, Bhupinder Thakur, Seema Sharma, Yudhvir Thakur, Ajeet Singh Saklani

Final Decision : Disposed Of

Judgement

Jyotsna Rewal Dua, J

1. Prayer in this petition is for quashing the notification dated 16.12.2020 issued under Section 125 of Himachal Pradesh Panchayati Raj Act read with

Rules 28 & 87 of H.P. Panchayati Raj (Election), to the extent Gram Panchayat Dilman, Development Block Pacchad, District Sirmour, H.P., has

been reflected as reserved for members belonging to Scheduled Caste category (open) in ensuing Elections 2020-2021 to the Panchayati Raj

institutions in the State.

2. Learned Senior Counsel for the petitioner contends that the concerned Gram Panchayat had been continuously reserved from 1995 onwards and,

therefore, in this election, it is required to be kept open for male members belonging to General Category. Giving further details, learned Senior

Counsel submits that the concerned Gram Panchayat was reserved for Scheduled Caste Category in 1995 elections, for women belonging to

unreserved category in 2000, for women belonging to Scheduled Caste Category in 2005, for women belonging to Scheduled Caste Category in 2010,

for women belonging to General Category in 2015, and in ensuing 2020²¹ elections it has been reserved as Scheduled Caste (open). This, according

to learned Senior Counsel amounts to denial of opportunity of fair representation to the male members belonging to General Category.

Learned Advocate General submitted that as per the amended provisions of H.P. Panchayati Raj Act and Rules framed thereunder, Election year

2010 has been taken as the base year for implementation of Election Reservation Roster. Therefore, it is only thereafter that the Election Reservation

Roster is to be rotated and has accordingly been rotated in accordance with applicable provisions of H.P. Panchayati Raj Act 1994 and the H.P.

Panchayati Raj (Election) Rules. By applying the Election Reservation Roster in²² consonance with the principle of rotation envisaged under the Act

and Rules, the post of Pradhan in the concerned Gram Panchayat has been reserved for the members belonging to Scheduled Caste Category (open)

in ensuing elections to Panchayati Raj institutions.

No legal and cogent argument in support of plea raised in the writ petition has been advanced with respect to the prayers made in the writ petition.

Petitioner has failed to substantiate the plea of Election Reservation Roster having been wrongly applied to the seat in question or that the seat was

essentially required to be kept open for General Category. Accordingly we do not find any merit in the instant petition and the same is dismissed. The

parties are left to bear their own costs.

Pending application(s), if any, shall also stand disposed of.