
(1999) 02 RAJ CK 0035
In the Rajasthan High Court
Case No : Civil Writ Petition No. 565 of 1999

Pukhraj Shisodia

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 19-02-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1999 Raj 256 : (1999) 2 RLW 798

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Advocate : N.M. Lodha, for the Appellant;

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—By way of this petition, the petitioner has challenged the impugned order dated 16-2-1999 (Annex. 3) passed by His Excellency the Governor of State of Rajasthan, whereby, 5 days starting from 20-2-1999 to 24-2-1999 have been declared as "Dry Days" for three Districts of Rajasthan i.e. Jodhpur, Nagaur and Rajsamand in view of the by-elections which are going to held on 22-2-99. Learned counsel Shri Lodha for the petitioner submitted that when the election was for Sardarpura Constituency of Jodhpur District then "dry days" could have been declared only for that constituency or at the most for Jodhpur City, but it cannot be for the entire Jodhpur District. This submission of Mr. Lodha cannot be accepted for the simple reason that the impugned order at Annex. 3 is passed for the three Districts namely Jodhpur, Nagaur and Rajsamand where by-elections are there on 22-2-99 and except the petitioner no one has challenged the impugned order at Annex. 3 passed for Nagaur and Rajsamand Districts. It is true that the election is to be held in Sardarpura Constituency of Jodhpur City, but this Court cannot sit in appeal over the administrative decision taken by the State Govt. as to whether it should have been restricted for the Sardarpura Constituency or for the Jodhpur City.

2. Mr. Lodha then contended that the elections are going to be over on 22-2-99

and, therefore, at the most "dry days" could have been declared up to 22-2-99 and not thereafter for 23rd and 24th February, 1999. There is no substance in this submission as well. The mere fact that elections will be over on 22-2-99 will not be sufficient because counting of vote will start on 24-2-99 or so. In that view of the matter, if the State Govt. in its wisdom found that those two days i.e. 23-2-99 and 24-2-99 may also be declared as "dry days" then the petitioner cannot have any grievance regarding the same.

3. Mr. Lodha then submitted that the petitioner has paid money for the entire month of February, 1999 which is only of 28 days and if he is asked to keep his liquor shop closed for 5 days then he will incur a substantial loss. This cannot be a ground to interfere with the impugned order a! Annex. 3. In business, as and when such administrative exigencies arises then one may suffer loss, but this would not be a ground for at least this Court to interfere with the impugned order.

4. Last submission made by learned counsel Shri Lodha was that before filing this petition, the petitioner has already made a representation dated 8-2-99, Annex. 2, therefore, Director of Excise be directed to decide his representation. There is no substance in this submission too. The petitioner submitted a representation to the Chief Election Officer, Rajasthan, Jaipur, who has no concern in the matter. It is true that the representation is forwarded to the Hon"ble Chief Minister of State of Rajasthan, the Excise Minister, Finance Minister, Deputy Secretary of Excise Department, Addl. Commissioner of Excise and District Excise Officer, Jodhpur. However, this is only for their notice.

5. Except the above contentions, no other contentions have been raised.

6. In view of the above, I do not find any substance or merit in this petition. Accordingly, it fails and is hereby dismissed.

7. In ordinary circumstances, no order of cost would have been passed, but considering the facts and circumstances of the case and that the petitioner has filed such a false and frivolous petition, therefore, petitioner is directed to pay special cost of Rs. 10,000/- within one month from today, which would be deposited with the Registrar General of this Court. On being depositing the said amount the same shall be utilised for the legal aid purpose.