
(1994) 04 P&H CK 0067
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4380 of 1994

Raj Kumar Kath and Others	Vs	APPELLANT
The State of Punjab and Others		RESPONDENT

Date of Decision : 06-04-1994

Acts Referred:

Punjab Municipal Act, 1911 — Section 12A, 12B

Citation : (1994) 107 PLR 637

Hon'ble Judges : H.S. Brar, J;Amrit Lal Bahri, J

Bench : Division Bench

Advocate : G.C. Dhuriwala, for the Appellant;

Final Decision : Dismissed

Judgement

A.L. Bahri, J.—The writ petitioners are three members of the Municipal Committee, Budhlada. Election of members of the Municipal Committee, Budhlada, was held in November, 1992. The matter came to the High Court in Civil Writ Petition No. 12715 of 1993 and after disposal of the aforesaid writ petition, the matter of co-option of members of the Municipal Committee was taken up. Order Annexure P-3 has been passed, making co-option of Nirmla Devi respondent No. 5. Subsequently, Sub Divisional Officer, Budhlada, exercising powers of the Deputy Commissioner, has summoned the meeting of members of the Municipal Committee, to be held today, i.e. April 6, 1994, at 4.00 P.M. for election of the President and Vice President of the Municipal Committee. Orders Annexure P-3 and P-4 are questioned in this writ petition. 13 members were elected, out of whom Daya Wanti is the only member, who belongs to Balmiki caste (i.e. Scheduled Caste) and is a lady member. Order Annexure P-3 mentions that Daya Wanti belongs to Balmiki caste. However, Nirmla Devi has co-opted u/s 12-B of the Punjab Municipal Act. Section 12-A and 12-B read as under :-

"12-A Co-option from amongst Balmiki, Chura or Bhangi-If no person belonging to Scheduled caste Balmiki, Chura or Bhangi has been elected to a committee; the elected members of the committee shall co-opt in accordance with the

provisions of Section 12-D one person belonging to the aforesaid caste, who is otherwise qualified to be elected to be a member of such committee."

"12-B.Co ption from amongst women.-If no women has been elected to a committee, the elected members of the committee shall co-opt in accordance with the provisions of Section 12-D, two women, who are otherwise qualified to be elected as members of such committee, and if one woman has been elected members shall co-opt cute such woman."

Contention of learned counsel for the petitioners is that Daya Wanti, who has been elected, can either be treated as belonging to Scheduled Caste, or a lady member. If she is to be treated as a lady member, then Section 12-A of the Act provides that another person belonging to Scheduled Caste could be co opted and if she is to be treated as belonging to Scheduled Caste, two women can be co opted u/s 12-B of the Act. There is fallacy in the argument, Section 12-A was rightly ruled out by passing order Annexure P-3. Since Daya Wanti belongs to Scheduled Caste and had been elected no other person could be co opted u/s 12-A as reproduced above. Daya Wanti also happens to be a lady member. If no woman had been elected the members of the Municipal Committee could co-opt two women members, as required u/s 12-B of the Act and if one woman had been elected, co option could be for one woman member only. Since Daya Wanti, a woman candidate, had been elected, though she belongs to Scheduled Caste, only one woman member could be co-opted u/s 12-A of the Act and Nirmla Devi was rightly co opted. Two more women members were not to be co-opted u/s 12-B of the Act, as is contemplated. We find no merit in this writ petition, which is hereby dismissed.