

(2008) 09 P&H CK 0152
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 13327 of 2008

Ramlal and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 15-09-2008

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Panchayati Raj Act, 1994 — Section 12(1)

Citation : (2009) 1 ILR (P&H) 597 : (2009) 5 RCR(Civil) 647

Hon'ble Judges : Satish Kumar Mittal, J; Jaswant Singh, J

Bench : Division Bench

Advocate : Vikas Behl, for the Appellant; N.S. Virk, Addl. A.G. for Respondents No. 1 to 5 and Sanjay Gupta, for Respondents No. 6 to 8, for the Respondent

Judgement

Satish Kumar Mittal, J.—Petitioners, who are elected Panches of Gram Panchayat of Village Ghakewal, Tehsil and District Nawanshahr, have filed this petition under Articles 226/227 of the Constitution of India challenging the election of Respondent No. 6 as Sarpanch of the said Gram Panchayat.

2. It is the case of the Petitioners that Petitioner No. 1, who has been elected as Panch from the reserved category of Scheduled Caste is the only eligible candidate to contest the election for office of Sarpanch of Gram Panchayat of Village Ghakewal, Tehsil and District Nawanshahr, which is reserved for Scheduled Caste and Respondent No. 6 who, though, is Scheduled Caste but has declared elected against the General Category as unopposed, was not eligible to contest the election and he has been wrongly elected as Sarpanch of the said Gram Panchayat.

3. On the other hand, learned Counsel for the Respondents while referring to the decision of Hon'ble Supreme Court in *Kasambhai F Ghanchi v. Chandubhai D. Rajput* and Ors. (1998) PLR 611 submitted that any Panch, who belongs to the Scheduled Caste Category can contest the election of the office of Sarpanch of the Gram Panchayat, which is reserved for Scheduled Caste Category by

producing a Scheduled Caste Certificate even though such person was elected as a Panch against the seat reserved for General Category.

4. Thus, the controversy in this writ petition is whether a Panch, who was elected as such against the seat reserved for General Category, is eligible to contest the election of the office of Sarpanch, which is reserved for the category of Scheduled Caste.

5. We are of the opinion that a Panch belonging to the Scheduled Caste is eligible to contest the election of the office of Sarpanch, which is reserved for Scheduled Caste by producing a Scheduled Caste Certificate. He cannot be prevented to contest the election only on the ground that he elected as Panch against the seat reserved for General Category.

6. A bare reading of Sub-section (1) of Section 12 of the Panchayati Raj Act, 1994 makes it clear that the number of the offices of Sarpanch of the Gram Panchayat in the district shall be reserved for Scheduled Castes proportionately to the population of the Scheduled Castes in the District. This Section does not provide that only a Panch, who has been elected as such against the seat reserved for Scheduled Caste can only contest the election of the office of Sarpanch, which is reserved for the category of Scheduled Caste.

7. In our opinion, any Scheduled Caste, whether he has been elected as Panch against the seat reserved for General Category or reserved category of Scheduled Caste, can contest the election of the office of Sarpanch, which is reserved for Scheduled Caste. The Supreme Court in *Kasambhai F. Ghanchi's* case (supra) has held that a candidate belonging to a Backward Class, who has been elected from an unreserved seat, is eligible to contest the election for the post of President of the Municipal Committee, which was reserved for a Backward Class candidate, while making the following observations:

The Act and the Rules provide for reservation for Scheduled Castes, Scheduled Tribes, Backward Classes and women. No reservation or classification is made ward-wise. To put it differently all members of the Scheduled Castes, for example, will be regarded as belonging to one class irrespective of the fact whether they had been elected to a reserved seat or to a general seat. Similar is the position with regard to the Backward Classes, Scheduled Tribes and women. The law does not contemplate or provide for any further sub-classification of the type which has been suggested by the Respondents. Just as all members of the municipality, irrespective of the fact whether they had been elected to a reserved seat or not, are eligible for election to the post of the President when it falls in the general category, similarly when as per the President is to be one who, say, belongs to the category of Scheduled Caste then all members of the municipality who are Scheduled Caste, irrespective of the seat to which they had been elected, would be eligible to stand for election. Neither the Act nor the rules stipulate that it is only such a member who has been elected to the reserved seat, who would be eligible to stand for election to the post of President when it

is the turn of that category of candidate to become the President of the municipality.

8. The question involved in this writ petition is squarely covered by the decision of the Hon"ble Supreme Court.

9. In view of the aforesaid discussion, we hold that Respondent No. 6 being a Scheduled Caste, who was elected as Panch from the reserved category of General, was fully eligible to contest the election of the office of Sarpanch, which was reserved for Scheduled Caste.

10. Dismissed.