
(1995) 11 MP CK 0034

In the Madhya Pradesh High Court

Case No : Writ Petition No. 1478 of 1995

Ramswaroop Dohare and Another

APPELLANT

Vs

Ayukt Sahkarith Avam Panjiyak Sahkari Sanstha, M.P. and
Others

RESPONDENT

Date of Decision : 03-11-1995

Acts Referred:

Citation : AIR 1996 MP 187

Hon'ble Judges : T.S. Doabia, J

Bench : Single Bench

**Advocate : P.N. Kelkar and Raipuria, for the Appellant; K.B. Chaturvedi,
Government Advocate, for the Respondent**

Judgement

T.S. Doabia, J.—The election process started with a view to establish Managing Committee of respondent No. 1, sanstha, is sought to be brought to a halt by passing an order, copy of which is Annexure P/2. Election programme was issued on 30th of August, 1995. The nominations were to be filed on 28th of September, 1995. These forms were scrutinised on 29th of September, 1995. 30th of September, 1995, was the date fixed for withdrawal of nominations. The symbols were allotted. Thereafter, the elections were to be held on 6th of October, 1995. However, by issuance of Annexure P/2, the election-process, as noticed above, has been brought to a grinding halt.

2. The only contention raised by the counsel appearing for the petitioners is that once the election programme "has been pronounced, it should be allowed to be completed. The counsel placed reliance on a decision given in Rajendra Shukla v. A. B. Qureshi, Assistant Registrar, Co-operative Societies, Bilaspur, 1985 J.L.J. 370. Para 6 is relevant, it reads as under:

"It is not in dispute that the election programme was announced and it is also not disputed that this dispute was entertained at a stage which was before the elections were held as the elections were scheduled to be held on 30-10-1984, whereas the interlocutory order passed by respondent No. 1 admittedly is of

29-10-1984. It is, therefore, apparent that respondent No. 1 entertained the dispute u/s 64(2) of the Act in direct contravention of the provisions contained in the proviso to Section 64(2) quoted above. In this view of the matter, therefore, this interlocutory order and all other proceedings which may have taken place before the respondent No. 1 in this dispute are apparently contrary to law and, therefore, deserve to be quashed. It is also regrettable that respondent No. 1 entertained a dispute when the person who raised the dispute was his own son."

3. The law is well settled that once the election process commences, it should be completed to its logical end. In this regard, it would be apt to refer to Anand Prakash and Another Vs. Assistant Registrar, Co-operative Societies and Others, ; wherein it was held that no interim directions can be given. Para 18 is relevant it reads as under:

"An arbitrator acting under the Co-operative Societies Act has no inherent, implied or incidental or consequential power in the exercise of which he can pass an order of stay or in the nature of an injunction. Such an order is ultra vires powers and in the eye of law null and void."

4. See also in Jagadish Patil Vs. The State of Karnataka and Others, Kant 4, it was held that election process once started cannot be stopped. It was said that "it is a settled law that elections to any office cannot be normally postponed unless the law itself in express terms authorises such an officer on any of the circumstances mentioned in such a law itself."

5. The observations made by Hon. Shri J. S. Verma, J. (now Judge of Supreme Court of India) in Sewa Sahakari Sanstha Mahagarh and Others Vs. Ramchandra Narayan Kokil and Others, are clear pointer that election process once started should be allowed to continue without any restriction. In para 7 it was said:

"..... This being, so, the Returning Officer, even assuming that he was duly appointed had clearly no power to adjourn the meeting or to stay the elections. For this reason, the Returning Officer having also decided to leave the meeting even though the same was continued, his absence has not been shown to vitiate the elections for contravention of any provision of law."

It was further said:

"Before parting with this case, we are constrained to observe that this case reveals how unscrupulous and power hungry person occupying the office of the President of the Society can set at naught the democratic process envisaged by the provisions of law providing for the management of such socie ties, if he is not checked by the authorities conferred with the powers of superin tendence. It is to ensure against such a possibility that considerable powers of superintendence have been given to the Registrar, Co-operative Societies and his assistants. However, we are amazed to find that the authorities concerned in this parti- cular case were wholly oblivious to such a duty enjoined upon them, with the result that respondent No. 3."

6. Thus, the order, Annexure P/2, by which election process was brought to halt is held to be bad. Let further steps be now taken.