

(2023) 02 DEL CK 0022

In the Delhi High Court

Case No : Civil Writ Petition No. 700 Of 2019, Civil Miscellaneous No. 3052 Of 2019

Sandesh Mayekar

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 02-02-2023

Acts Referred:

Dentist Act, 1948 — Section 31, 32(4), 39

Citation : (2023) 02 DEL CK 0022

Hon'ble Judges : Manmohan, J;Saurabh Banerjee, J

Bench : Division Bench

Advocate : Varun Singh, Kajal S.Gupta, Alankriti Dwivedi, Himanshu Yadav, Monika Arora, Yash Tyagi, Surekha Raman, Unnimaya S., T.Singhdev, Aabhash, Vishaal Jogdand, Siddharth Dharmadhikari, Aaditya Pande, Raghav Sharma, Sakshi Goyal

Final Decision : Disposed Of

Judgement

Manmohan, J

1. Present writ petition has been filed challenging the electoral process leading to the election of a member of Dental Council of India (DCI) in the State of Maharashtra. However, due to passage of time and as the next election for the same post is now due later this year, learned counsel for the petitioner confines his prayer to reform of the electoral system to make it more transparent.

2. Learned counsel for the petitioner states that as per the report dated 23rd July, 2018 prepared by respondent No.5, the maintenance of electoral register prior to the last election was done by the Indian Dental Association whose president was also elected as a member of DCI in the last election held by respondent Nos. 4 & 5. He states that it is of utmost importance that the preparation of electoral list should be done by the statutory authorities without any interference from any interested party.

3. He submits that in terms of Chapter II, Regulation III (2) of Dental Council (Election) Regulation, 1952, respondent Nos. 4 and 5 should ensure that there is two stage preparation of electoral list. In terms of stage one, respondent Nos. 4 & 5 should fix a date for preparing the preliminary electoral list. He points out that in 2007, the respondents had published a date for preparing the preliminary electoral roll. Subsequently, after receiving comments from the relevant stakeholders, the respondents had published the electoral roll. He emphasises that respondent Nos. 4 & 5 should ensure that a period of thirty days is available to the public at large to raise objections to the preliminary electoral roll. He points out that the scheme of the Act is to provide a minimum of thirty days to raise such objections. Section 32 (4) of the Dentist Act, 1948 (for short 'Act') provides for raising objections before a Tribunal for deletion of name within thirty days time period. Therefore, according to him, the scheme of the Act as well as the Rules provide a minimum period of thirty days to raise objections. He also states that respondent Nos. 4 & 5 should ensure that the dates of publication of the preliminary and final electoral rolls are published in two newspapers, a local newspaper and an English newspaper, which have a wide circulation across the State of Maharashtra. He further prays that the final electoral roll should be published on the official website of respondent No.5.

4. Learned counsel for the respondents, without prejudice to their rights and contentions, have taken the aforesaid suggestions in a positive way.

5. This Court is of the view that the preparation and maintenance of electoral list should be done independently by respondent Nos. 4 & 5 in terms of Section(s) 31 & 39 of the Act and there should be no interference by any third party, in particular, a person or an entity who intends to contest such an election.

6. This Court finds merit in the suggestion given by learned counsel for the petitioner and directs the respondents, through their designated officers to formulate and implement a two stage preparation of the electoral list i.e. by first preparing a preliminary electoral roll and then a final electoral roll, after giving an opportunity to the aggrieved parties to raise objections within thirty days. The schedule to raise objections at both the stages should be published in two widely read newspapers (local language and English language) in the State of Maharashtra. This Court also directs that the final electoral roll so prepared should be published on the official website of Maharashtra State Dental Council.

7. With the aforesaid directions, present writ petition along with pending application stands disposed of. This Court clarifies that the directions given by this Court are prospective in nature and it has not commented upon the merit of the previous election held.