
(2021) 01 SHI CK 0069
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 4515 Of 2020

Seema Azad

APPELLANT

Vs

State Of Himachal Pradesh & Others

RESPONDENT

Date of Decision : 04-01-2021

Acts Referred:

Citation : (2021) 01 SHI CK 0069

Hon'ble Judges : Tarlok Singh Chauhan, J; Jyotsna Rewal Dua, J

Bench : Division Bench

Advocate : Rajesh Kumar Parmar, Ashok Sharma, Vinod Thakur, Vikas Rathore, Shiv Pal Manhans, Nand Lal Thakur, Bhupinder Thakur, Seema Sharma, Yudhvir Thakur, Ajeet Singh Saklani

Final Decision : Dismissed

Judgement

Jyotsna Rewal Dua, J

1. Contention of the petitioner is that in the General Election scheduled to be held in 2020Â2021 to the Urban Local Bodies, the office of Chairperson

of Municipal Council Parwanoo, District Solan is required to be reserved for the persons belonging to Scheduled Castes.

2. Submission of learned counsel for the petitioner is that the Municipal Council Parwanoo has nine wards in all. In 2010 elections, five wards were

reserved for women belonging to General Category. No ward was reserved for women belonging to Scheduled Castes. Seat of Mayor was also not

reserved for Scheduled Caste Category. In 2015 Elections also, five wards were kept for women belonging to General Category. In the elections

scheduled to be conducted during 2020Â21 for Urban Local Bodies, three seats have been reserved for women belonging to General Category and

only one seat has been reserved for women belonging to Scheduled Caste. In all,

four wards have been reserved for women, which is less than 50 per cent reservation. Asserting that members belonging to Scheduled Castes have been deprived of their rights to represent, the petitioner has filed the instant writ petition for grant of following prayers:Â?

â??(i) (a) by issuance of the writ of certiorari, â??impugned Notification (AnnexureÂP/3)â? wherein Respondents have violated the law by overlooking the provision of reservation may very kindly be quashed and set aside;

(b) by way of writ of mandamus, respondents may very kindly be directed to issue fresh notification for the election, with the specific directions to follow provisions of reservation in the interest of Equity, justice and fair play.

(c) by way of writ of Mandamus, respondents may very kindly be directed to issue fresh notification by keeping seat of chairperson reserved for the Scheduled Caste category in the interest of Equity, justice and fair play.â??

Rebutting the above assertions, learned Advocate General submitted that vide notification dated 2.9.2015, the Himachal Pradesh Municipal Election

Rules 2015, were framed by the Urban Development Department H.P., whereunder Election held in the year 2015 is to be considered as the first

Election. Treating the year 2015 as the base year, Election Reservation Roster is to be prepared, applied and accordingly rotated in 2020 Elections.

Election Reservation Roster has been applied to Municipal Council Parwanoo and accordingly rotated in accordance with the applicable provisions of

HP Municipal Act 1994 & H.P. Municipal Election Rules, 2015. Different wards in Municipal Council Parwanoo have been accordingly kept reserved

or unÂreserved for different categories. The contentions of the petitioner that reservation has not been provided as per Election Reservation Roster, is

factually and legally incorrect.

The edifice of petitionerâ??s grievance relates to alleged wrong application of Election Reservation Roster in 2010 Election. But the fact remains

that in light of the amendment carried out to the H.P. Municipal Election Rules, 2015, the reservation points pertaining to Election year 2010 have no

bearing upon the present Election process being conducted in 2020Â21. In case the petitioner had any grievance regarding reservation of seats for

Scheduled Castes or any other category viz viz Municipal Council Parwano, then she should have sought redressal of the same at the appropriate

time. Learned counsel for the petitioner could not substantiate as to how the Election Reservation Roster, for ensuing Election to Urban Local Bodies

viz viz Municipal Council Parwano, is not being applied or rotated in accordance with applicable provisions of H.P. Municipal Act and H.P.

Municipal Election Rules. Consequently in absence of any cogent rebuttal to the submissions made on behalf of the respondents/State, we do not find

any merit in the instant petition and the same is dismissed. The parties are left to bear their own costs. Pending application(s), if any, shall also stand

disposed of.