
(1994) 12 P&H CK 0008

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 17672-1994 and C.M. 12665-1994

Smt. Sunita

APPELLANT

Vs

D.C.

RESPONDENT

Date of Decision : 11-12-1994

Acts Referred:

Constitution of India, 1950 — Article 226
Haryana Municipal Election Rules, 1978 — Rule 21

Citation : (1995) 109 PLR 413

Hon'ble Judges : S.C. Malte, J;Amarjeet Chaudhary, J

Bench : Division Bench

Advocate : V.K. Jain and J.L. Malhotra, for the Appellant; M.L. Sarin and Hemant Sarin, for the Respondent

Final Decision : Dismissed

Judgement

Amarjeet Chaudhary and S.C. Malte, JJ.—CM. is allowed and written statement taken on record.

2. The petitioner had filed nomination papers which were accepted by the Returning Officer. Aggrieved by the acceptance of nomination papers, Smt. Usha Rani filed revision petition before Deputy Commission, Yamuna Nagar. The Deputy Commissioner, Yamuna Nagar vide order dated 5.12.1994 accepted the revision petition by holding that the proposer Shri Pishori Lal was ineligible to contest the election on the date of filing of the nomination as per the provisions of Rule 21(h) of the Haryana Municipal Election Rules, 1978. As a consequence, Smt. Sunita was held to be ineligible for contesting the election on the date of filing the nomination, and her name was ordered to be deleted from the list of candidates of Ward No. 17. In this writ petition the petitioner has prayed for quashing the said impugned order.

3. On notice of motion, the respondents have put in appearance.

4. Counsel for respondent No.3 has taken preliminary objection that the writ

petition deserves to be dismissed as the petitioner cannot call in question an election in any Court except by way of an election petition. In reply, Shri V.K. Jain, learned counsel for the petitioner contended that the writ petition is the expeditious remedy whereas election petition is not. As such, the writ petition is maintainable.

5. After having considered the submissions, we are not inclined to interfere in the matter.

6. In the case in hand, it is not in dispute that the election process has already commenced and polling date has also been fixed.

7. The Supreme Court in N.P. Ponnuswami Vs. Returning Officer, Namakkal Constituency and Others, has held that the entire process of election commences from inviting nomination papers and ends with the declaration of the election.

8. If doubts and dispute arise out of or in connection with an election, that can be sorted out by a thorough inquiry in proceedings taken in election petition and the High Court would not interfere under Article 226 of the Constitution of India. The extra ordinary jurisdiction of the High Court can be invoked if the statute does not provide for any alternate remedy.

9. It is the conceded stand of the parties at the Bar that petitioner has an alternate remedy of election petition. In this view of the matter, the writ petition is dismissed. The petitioner is relegated to the remedy of election petition in accordance.