
(1976) 09 P&H CK 0031

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 684 of 1973

State of Haryana

APPELLANT

Vs

Shri Dalip Singh and another

RESPONDENT

Date of Decision : 01-09-1976

Acts Referred:

Punjab Agricultural Produce Markets Act, 1961 — Section 12(2)

Citation : (1976) 09 P&H CK 0031

Hon'ble Judges : R.S. Narula, J; D.S. Lamba, J

Bench : Division Bench

Advocate : H.N. Mehini, Deputy A.G. Haryana, for the Appellant; S.B. Lal, for the Respondent

Final Decision : Allowed

Judgement

R.S. Narula, J.—The constitution of a Market Committee under the Punjab Agricultural Produce Markets Act, 1981 as applicable to the State of Haryana (hereinafter called the Act) is given in Section 12 thereof. Sub-section (2) of that section provides that except for the official appointed by the State Government under Sub-section (1), the remaining members of the market Committee shall be nominated by the State Government by a notification in the manner prescribed in that section. Section 14(1) states "subject to the provision of Section 17" a nominated member of a Committee shall hold office for a period of three years from the date of his appointment. Section 17 relates to the filling of a casual vacancy in case of death, resignation, etc., of a member. The relevant part of that section is in the proviso thereof. The proviso states that the term of office of the member so appointed (to fill a casual vacancy) shall expire on the same date as the term of office of the vacating member would have expired had the latter held office for the full period allowed u/s 14 except for a certain contingency with which we are not concerned.

2. Notification u/s 12 of the Act nominating its various members was issued in respect of the Market Committee, Kamal, on June 11, 1970. The election of the

Chairman and Vice Chairman of the Committee was held on February 1, 1971. The life of the Committee completed with effect from the date of the notification u/s 12 expired on June, 11, 1973, Dalip Singh Respondent, however, filed a writ petition claiming that the period of three years referred to in Section 14 commences from the date of the election of the Chairman and the Vice Chairman, i. e.. with effect from February 1, 1971 and that, therefore, he was entitled to continue in office and fresh nominations could not be made. The petition was contested by the State Government. By his judgment dated September, 14, 1973, a learned single judge of this Court accepted the contention of Dalip Singh Respondent and allowed the writ petition and held that the life of the nominated members of the Committee would expire on February 1, 1974. That period had not expired when this appeal against the judgment of the learned Single Judge was admitted by Harbans Singh, C. J. (as he then was) and Jain, J on November, 14 1973. Even though the period as extended by the learned Single Judge has since expired Mr. Mehtani, the learned Senior Deputy Advocate-General, Haryana, submits that the matter should be decided as it is not of merely academic importance since the law laid down by the learned Single Judge would be applicable to all such cases. It is in this view of the matter that he has requested us to decide the matter more authoritatively

3. We have already referred to the provisions of Sections 12, 14 and 17. A reference to Section 15 and some other provisions of the Act shows that the expressions "nominated" and "appointed" have been used interchangeably at different places in the Act as synonyms for the purposes of referring to the date of notification u/s 12 and that there is no intention on the part of the Legislature to imply two different things or different situations by the use of the said two expressions. On a plain reading of the above mentioned expressions and particularly a reference to the proviso to Section 17 and Rule 9(1) of the rules framed under the Act, which is reproduced below, there appears to be no doubt to us that the term of three years referred to in section 14 commences from the date of the notification u/s 12 and not from the date of the election of the Chairman or Vice-Chairman:

The terms of office of the Chairman and Vice-Chairman of a Committee shall be co terminous with the term of the office of the members who had elected them.

The above-quoted rule clearly shows that the term of office of a member of the Committee is not dependent on the date of election of the Chairman and Vice-Chairman but is in existence independent of the said election. On the contrary, it appears that the term of office of the Chairman and Vice Chairman is dependent on the term of office of the other members. This clearly indicates that the term of office of the members of the Committee has to be spelt out independently of the date of election of the Chairman and Vice-Chairman and should be available even before the election and cannot be changed subsequent to or on account of the said election. The only ground on which the learned Single Judge has held to the contrary is that a recalcitrant officer of the Government on whom the duty to

hold the election of a Chairman and Vice-Chairman is enjoined may delay the commencement of the actual working of the Committee by delaying the election. That, in our opinion, is no ground to substitute for the provision made by the Legislature one which the Court may think to be reasonable. Any member of the Committee who is aggrieved by the delay in the election of the Chairman and Vice-Chairman being held can always approach this Court for a writ of mandamus to be issued to the concerned authority to hold the election in question

4. It appears that the various judgments on the precise point which were in existence before the decision of the learned Single Judge were somehow not brought to the notice of the learned Judge. As long as on December 2, 1970, a learned Single Judge of this Court (Tuli, J.) held in the Market Committee, Karnal and Ors. v. The State of Haryana 1970 PLJ 207, that Section 14 of the Act specifically provides that every member of the Committee elected u/s 12 shall hold office for a period of three years from the date of his appointment and that the date of appointment of an elected member shall be the date on which his election is notified in the official gazette. The learned Judge also held that even if the Government fails in its duty to hold the elections for a Market Committee in time the previously elected members who are holding office for only three years from the date of their appointment cannot claim to continue in office after the expiry of that period on the ground that no members have been elected to succeed them. The judgment of the learned Single Judge in the above mentioned case was upheld in appeal by the Letters Patent Bench (D. K. Majahan, J. as he then was, and B S. Dhillon, J.) (L . P. A. No. 90 of 1970 decided on April 23, 1971) Another learned Single Judge of this Court (Jain, J.), has taken the same view in Civil writ No. 94(sic) of 1972 (Market Committee Mansa v. The State of Punjab CW No, 914 of 1972, decided on May 7, 1973. Jain J. followed with approval the view taken on this point earlier by Tuli, J., in the case of the Market Committee, Karnal (supra). We are in full agreement with the view taken by the two Single Benches and by the Letters Patent Bench in the aforementioned decisions.

5. For the reasons already assigned, we allow this appeal, set aside the judgment and order of the learned Single Judge and dismiss the writ petition of the Respondents. Since the Respondents have not apposed the appeal today we make an order as to costs in this appeal.