
(2002) 01 SC CK 0146

In the Supreme Court Of India

Case No : SLP (C) No. 22441 of 2001 with IAs No"s. 2-3 and SLP (C) No. 239 of 2002

State of Maharashtra and Another

APPELLANT

Vs

Deep Narayan Chavan and Others

RESPONDENT

Date of Decision : 10-01-2002

Acts Referred:

Citation : 2003 AIR 2103 = 2002 (5) Suppl. SCR 666 = 2003 (2) SCC 455 = 2002 (9) SCALE 778

Hon'ble Judges : R. P. Sethi, J;G. B. Pattanaik, J

Bench : Division Bench

Advocate : Uday Umesh Lalit, S.S. Shinde, R.B. Raghuvanshi and S.V. Deshpande, Ajit S. Bhasme and S. K. Visen, V.A. Bobde, Sanjay V. Kharde and Naresh Kumar, in SLP C No. 22441 of 200, for the Appellant;

Final Decision : Allowed

Judgement

G.B. Pattanaik J.-The State of Maharashtra assails an interim order passed by the Bombay High Court directing holding of election to the Municipality. The State Government having taken action for constituting a corporation in place of the Municipality, that action is the subject-matter of challenge before the High Court. During the pendency of the writ petition, the High Court, by interim order, has directed to hold the municipal election which was originally scheduled for 15-12-2001, but pursuant to an interim order of this Court the date has now been scheduled to 13-1-2002.

2. Mr Lalit, learned counsel appearing for the State of Maharashtra, contends that once a Municipal Council is constituted, then its duration should be five years in accordance with the constitutional provisions contained in Article 243-U and, therefore, in the event the writ application is dismissed and the State Government constitutes a Corporation, the Municipal Council will continue to function. This apprehension, in our considered opinion, is misconceived, inasmuch as under Section 341 of the Maharashtra Municipal Councils, Nagar

Panchayats and Industrial Townships Act, 1965 when the whole of the local area comprising a municipal area ceases to be a municipal area, with effect from the date on which such local area ceases to be a municipal area, the Council constituted for such municipal area shall cease to exist or function and the Councillors of the Council shall vacate office. Article 243-U of the Constitution unequivocally indicates that every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer. The expression "unless sooner dissolved under any law for the time being" would bring within its sweep the provisions of Section 341 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 and therefore the moment the Corporation is constituted in accordance with law, the elected Municipal Council would cease to function and so also the Councillors, though elected will have to vacate the office. In this view of the matter, we are not inclined to interfere with the interim order passed by the Bombay High Court directing holding of election to the Municipal Council.

3. Since this relates to constitution of a Corporation which, according to the State Government, would be in the larger interest of the civic body, the High Court would do well in disposing of the writ petition at an early date, preferably within three months from today.

4. Needless to mention, the State Election Commission on whom the burden of holding the election is cast, would discharge its obligation faithfully.

5. These petitions and applications stand disposed of accordingly.