

(2021) 01 SHI CK 0060

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 6303 Of 2020

Suresh Chand And Another Vs State Of Himachal Pradesh And Others ??

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Date of Decision : 04-01-2021

Acts Referred:

Himachal Pradesh Panchayati Raj (Elections) Rules, 1994 — Rule 87
Himachal Pradesh Panchayati Raj Act, 1994 — Section 8, 125

Citation : (2021) 01 SHI CK 0060

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

Bench : Division Bench

Advocate : Goldy Kumar, Ashok Sharma, Vinod Thakur, Vikas Rathore, Shiv Pal Manhans, Seema Sharma, Bhupinder Thakur, Yudhvir Singh Thakur, Ajeet Singh Saklani

Final Decision : Dismissed

Judgement

Jyotsna Rewal Dua, J

1. Challenge in this writ petition is to the notification dated 17.12.2020 issued by the respondents under Section 125 of the H.P. Panchayati Raj Act,

1994 read with Rule 87 of the H.P. Panchayati Raj (Election) Rules, to the extent different wards in Gram Panchayat Narwana Khas falling in

Development Block Dharamshala, District Kangra have been reserved for members belonging to different categories.

The grievance of the petitioner is that the seat of Ward Member in Ward No.5 of Gram Panchayat Narwana Khas has never been reserved for

Scheduled Caste category in previous elections. Therefore, in the ensuing 2020-21 elections to Panchayati Raj Institutions in the respondents-State, the

post of Ward Member in Ward No.5 of the said gram panchayat is required to be reserved for Members belonging to Scheduled Caste.

2. Learned Advocate General submitted that seats in gram panchayats are

allocated as per election reservation roster prepared in accordance with the provisions of relevant Statute and election rules. Further, allocation of seats and reservation to the post of Ward Members in 2020-21 elections to Panchayati Raj Institutions has been worked out according to population census 2011. The election roster has accordingly been applied and rotated from its implementation since 2010, which has been taken as the base year for application and rotation of election reservation roster. Learned Advocate General next pointed out that as per Section 8 of H.P. Panchayati Raj Act, 1994 read with Rule 87 of H.P. Panchayati Raj (Election) Rules, if the total population of Scheduled Caste or Scheduled Tribe in a block is less than 5% of the total population, then no office is to be reserved for them. It is pointed out by learned Advocate General that as per population census 2011, the total population percentage of Scheduled Caste in accordance with the provisions of relevant Statute and Rule has been determined as 0.4641. Therefore, no seat could be reserved for Scheduled Caste category. Learned counsel for the petitioner failed to rebut the above legal and factual submissions made on behalf of the respondents-State. In absence of any cogent and legal rebuttal to the submissions made on behalf of the respondents-State, we find no merit in the instant writ petition and the same is accordingly dismissed alongwith pending miscellaneous application(s), if any.