
(1999) 10 MP CK 0031
In the Madhya Pradesh High Court
Case No : Writ Petition No. 2874/97

Syed Habib Ahmad

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 09-10-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Madhya Pradesh Municipal Corporation Act, 1956 — Section 9(1)

Citation : (2000) 2 MPHT 166

Hon'ble Judges : S.P. Khare, J

Bench : Single Bench

Advocate : Pramod Verma, for the Appellant; V.K. Shukla and A.J. Pawar, for the Respondent

Final Decision : Allowed

Judgement

S.P. Khare, J.—This is a petition under Article 226 of the Constitution of India challenging the order dated 30-4-1997 (Annexure P-2) of the respondent No. 1 State Government by which the respondents No. 3 to 6 have been nominated as councillors in the Municipal Corporation, Bhopal u/s 9 (1) (b) of the M.P. Municipal Corporation Act, 1956 (hereinafter to be referred to as the Act).

2. Section 9 (1) (b) of the Act provides that Municipal Corporation shall consist of, amongst others, not more than six persons "having special knowledge or experience in municipal administration" nominated by the State Government. The respondents do not disclose how the respondents No. 3 to 6 have special knowledge or experience in municipal administration. The only plea which has been set up in the return is that the petitioner has no locus standi to challenge the order of nomination. In the absence of any details either from the State Government or the respondents No. 3 to 6 it must be held that they do not possess the special knowledge or experience in municipal administration as required by the statutory provision.

3. So far as the question of locus-standi of the petitioner is concerned he is a

voter and resident of Bhopal. He must be a tax or rate-payer. He is within his legitimate right to see that the composition of the Municipal Corporation is as per legal requirement. He has sufficient interest. He is the aggrieved or interested person. He has a genuine grievance. He can challenge the impugned order as he is likely to suffer legal injury. The narrow and rigid rule of locus standi has been buried long back. This is a case where the impugned order has been passed in violation of a statutory provision. It would cause public injury. If no one can maintain an action for redress of such public wrong or public injury, it would be disastrous for the rule of law, for it would be open to the State or a public authority to act with impunity beyond the scope of its power.

4. Lord Denning in his well known book "The Discipline of Law" 1979 Edn. page 144 has observed : "I must confess that whenever an ordinary citizen comes to the Court of appeal and complains that this or that Government department - or this or that local authority - or this or that union - is abusing or misusing its power - I always like to hear what he has to say". The same view has been taken in the famous case of the Supreme Court in S.P. Gupta Vs. President of India and Others, .

5. Every citizen has standing to invite the Court to prevent some abuse of power, and in doing so he may claim to be regarded not as a meddlesome busy body but as a public benefactor. There has been a virtual abandonment of the former restrictive rules as to locus standi. In R.V.S. Inland Revenue Commissioner's, case (1982) AC 617 Lord Diplock approved the eloquent words of Lord Denning M.R. : "I regard it as a matter of high constitutional principle that if there is good ground for supposing that a Government department or a public authority is transgressing the law, or is about to transgress it, in a way which offends or injures thousands of Her Majesty's subjects, then any one of those offended or injured can draw it to the attention of the Court of law and seek to have the law enforced and the Courts in their discretion can grant whatever remedy is appropriate". Lord Diplock expressed the same point in his own words : "It would, in my view, be a grave lacuna in our system of public law if a pressure group, like the federation, or even a single public-spirited tax-payer, were prevented by out dated technical rules of locus standi from bringing the matter to the attention of the Court to vindicate the rule of law and get the unlawful conduct stopped". The Court is determined to prevent technicalities from impeding judicial review so as to protect illegalities and derelictions committed by public authorities. H.W.R. Wade in his book on Administrative Law 7th Edition page 713 observes : "The law about standing has moved forward, and the more progressive interpretations of it are probably the more likely to prove right in the future".

6. In People's Union for Democratic Rights and Others Vs. Union of India (UOI) and Others, , the Supreme Court observed that the traditional rule of standing which confines actions to the judicial process only to those to whom legal injury is caused or legal wrong is done has now been jettisoned by this Court and the

narrow confines within which the rule of standing was imprisoned for long years as a result of inheritance of the Anglo-Saxon system of jurisprudence have been broken and a new dimension has been given to the doctrine of locus standi which has revolutionized the whole concept of access to justice in a way not known before to the western system of jurisprudence. Recently in Dr. (Mrs.) Meera Massey, Dr. Abha Malhotra and Dr. S.C. Bhadwal and Others Vs. Dr. S.R. Mehrotra and Others, , same principles have been reiterated. The Court has only to guard against a busy body or meddlesome interloper.

7. This petition is allowed. By an interim order the respondents No. 3 to 6 were restrained from acting as councillors of the Municipal Corporation, Bhopal. That order is confirmed and the impugned order is quashed.