
(1959) 04 MP CK 0036

In the Madhya Pradesh High Court

Case No : C. Miscellaneous Petition No. 167 of 1958

Wasudeo

APPELLANT

Vs

Collector Durg

RESPONDENT

Date of Decision : 16-04-1959

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1959) JLJ 695

Hon'ble Judges : T.C. Shrivastava, J;P.K. Tare, J

Bench : Division Bench

Advocate : Y.B. Dharmadhikari, for the Appellant; S.B. Sen and M.L. Shrivastava, for the Respondent

Final Decision : Dismissed

Judgement

T.C. Shrivastava, J.—This is a petition under Articles 226 and 227 of the Constitution filed by Shri Wasudeo Yeshwantrao Rajimwale, who has been elected President of the Municipal Committee, Rajnandgaon. He has appointed two Vice-Presidents in accordance with section 18 (2) of the Central Provinces and Berar Municipalities Act, 1922 (No. II of 1922) hereinafter called the Municipalities Act--but the Collector. Durg. has refused to notify them as such. By this petition he prays for a writ of mandamus directing the respondents 1 to 3 to notify the names of the two Vice-Presidents nominated by him.

2. The petitioner was a candidate for the office of the President for which the polling was held on 30-4 1958, and after the counting on the same night, he was declared elected as President. His election was notified on 23-5-1958 In the meantime, on the coming into force of the Madhya Pradesh Municipalities (Amendment) Act, 1958 (Act No. 14 of 1958)--hereinafter called the amending Act on 5-5-1958, section 18 of the Municipalities Act was amended by the amending Act. Instead of the Vice-President being nominated by the President u/s 18 (2) of the Municipalities Act, it has been provided in the amending Act that the Vice-Presidents shall be elected by the members of the committee. The

Collector, Durg, therefore, asked the Municipal Committee to elect Vice-Presidents and did not take notice of the names of the Vice-Presidents who had been nominated by the petitioner.

3. The respondents 1 to 3 contend that after the coming into force of the amending Act the President has no power to nominate Vice-Presidents u/s 18 (2) of the Municipalities Act. They state that under the amending Act the Municipal Committee has been given the power to elect its Vice-Presidents, and accordingly Shri Sheokumar Bajpai and Shri Khajan Singh Khanja have been elected by the Committee.

4. The petitioner amended his petition by adding the names of the aforesaid elected Vice-Presidents as respondents 4 and 5 on 13-1-1959.

5. Shri Y.S. Dharmadhikari, for the petitioner, contends that as the petitioner was elected President by a direct vote u/s 18 of the Municipalities Act, as it stood prior to the coming into force of the amending Act, it is his vested right to nominate two Vice-Presidents of his choice. This right cannot be taken away by the amending Act. We do not see any merit in this contention. After the amendment of section of the Municipalities Act, the only mode to fill in the office of the Vice-President is by an election by the Committee under the amending Act. Shri Dharmadhikari points out that section 18 provided for election of the President and the nomination of the Vice-Presidents by the President, and in replacing this section by the amending Act, the Committee has been given the power to elect a President as also two Vice-presidents. He reads the provision regarding the filling in of the office of the President and the two Vice-Presidents as one unit and contends that once the process for election of the President had begun, the process should have been continued till the two Vice-Presidents had been nominated by the President. Reading section 18 as, it was before the amendment, and as it is after the amendment, we have no doubt that the provision for filling in the three offices under that section are quite independent of each other, though they are provided for in the same sentence after the amendment. In section 18 as it stood prior to the amendment, there were two separate sub-sections dealing with the election of the President and the appointment of the Vice-Presidents. It is merely for the sake of convenience that both the provisions have been condensed into one sub-section after the amendment as the mode is the same. Nevertheless, they remain three separate elections. We do not agree that a President and the two Vice-Presidents have to be elected in the same meeting; and since a President cannot be elected in the meeting, there can be no election of Vice-Presidents also. We hold that the petitioner could take no action to appoint the Vice Presidents, as no such power existed in him after the amendment.

6. Accordingly, the authorities were right in asking the Municipal Committee to elect its Vice-Presidents and the election of respondents 4 and 5 as Vice-Presidents is valid.

7. The petition is dismissed with costs. Hearing fee is fixed at Rs. 50/- only.