

(2014) 11 MP CK 0020
In the Madhya Pradesh High Court
Case No : Writ Petition No. 16936/2014

Zeeshan Rehman

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 10-11-2014

Acts Referred:

Constitution of India, 1950 — Article 243ZG

Madhya Pradesh Municipalities Act, 1961 — Section 22, 22(1)(d)(iii), 29A

Citation : (2014) 11 MP CK 0020

Hon'ble Judges : Sanjay Yadav, J; Rajendra Menon, J

Bench : Division Bench

Advocate : Amit Khatri, Advocate for the Appellant; Kumaresh Pathak, Dy. A.G. and Siddharth Seth, Counsel for Election Commission, Advocate for the Respondent

Judgement

1. Challenge in this petition is made to a notification dated 7.10.2014 issued by Collector, Bhopal in the matter of reserving Ward No.20 under the Municipal Corporation, Bhopal and declaring an unreserved category woman, challenging the reservation on the ground that it is contrary to the provisions of Rule 3 & 4 of the M.P. Municipalities (Reservation of Wards for Scheduled Castes, Scheduled Tribes, Other Backward Classes and Women) Rules, 1994.

2. Shri Kumaresh Pathak, learned Dy.A.G., points out that the Election Commission has already declared the election programme for the Municipal Corporation in question and now when the election process has commenced interference by the writ Court is not called for, instead the writ petitioner may either represent to State Election Commission or file an election petition after the elections are over. Once the election programme and model code of conduct has been issued, interference in the matter is not called for by this Court.

3. We have considered the submission made and are of the opinion that once the election process has been put into motion and when the reservation made for conduct of the election is challenged, it is not appropriate for the writ Court to

look into the matter. The petitioner may challenge the same after the elections are held or may bring this fact to the notice of the State Election Commission or the State Government and it would be for these authorities to look into the matter. For the present, no case is made out for interference in the election process.

4. Apart from the aforesaid, it is clear that the reservation in question is undertaken in accordance to the requirement of the statutory rule and the provisions of section 29-A of the M.P. Municipalities Act, 1961 (hereinafter referred to as "Act" for short). Under Section 22 of the Act ground for declaring an election or a nomination to be void is specified i.e. under section 22(1)(d)(iii) of the Act. This provision clearly stipulates that if an election is held to the Municipal Council and there is non-compliance to any of the provisions of the Act or the Rules or orders made thereunder, it can be a good ground for declaring the election as void. It is therefore clear that the grounds raised in the matter of reservation contrary to the Act and Rules framed thereunder is a ground, on which an election petition can be filed and once an election petition on such a ground is maintainable, the writ Court cannot interfere in the matter, particularly in the light of the provisions of Article 243-ZG of the Constitution of India and the law laid down by the Supreme Court as far as back in the year 1996 in the case of Anugrah Narain Singh and Another Vs. State of U.P. and Others, .

5. With the aforesaid, the petition stands disposed of.