
(1994) 12 P&H CK 0007
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 14966 of 1994

Zorawar Singh

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 16-12-1994

Acts Referred:

Constitution of India, 1950 — Article 243Q

Citation : (1995) 110 PLR 297

Hon'ble Judges : S.C. Malte, J;Amarjeet Chaudhary, J

Bench : Division Bench

Advocate : M.L. Sarin and Hemant Sarin, for the Appellant; H.L. Sibal, A.G., D.R. Trikha, D.A.G., H.S. Hooda and Sanjev Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Amarjeet Chaudhary and S.C. Malte, JJ.—This order will dispose of Civil Miscellaneous No. 12626 of 1994 and R.A. No. 346 of 1994 filed in Civil Writ Petition No. 14966 of 1994.

2. Notice of the applications was issued to the writ petitioner's counsel, in response to which he has put in appearance.

3. In these applications, the applicants have prayed for recalling of this Court's order dated 6th December, 1994, vide which the Court allowed the writ petition and quashed the order dated 29th September, 1994, copy of which is Annexure P-I to the writ petition pertaining to formation of Block II, Charkhi Dadri. A direction was also issued that fresh Wardbandi/Blocks be constituted in accordance with rules. It was further directed that in case objection/appeal is preferred by any aggrieved party, that is to be disposed of by a well reasoned order.

4. Learned counsel for the applicants has contended that in pursuance of this Court's order, the respondent-State has stayed the election which has adversely affected the applicants, who were contesting the election from the aforesaid

wards. Learned counsel for the applicants contended that schedule of election was notified and notification to this effect was issued. Had this fact been brought to the notice of this Court, the Court would not have interfered in the matter, in view of the law laid down by the Supreme Court in *N.P. Ponnuswami Vs. Returning Officer, Namakkal Constituency and Others*, . It has also been urged that once the notification is issued, the delimitation of the wardbandi cannot be questioned. Shri Sarin further contended that in view of the amended provisions of the Constitution, election cannot be called in question except by an election petition.

5. After considering the submissions of the counsel for the parties and in view of the amended provisions of law, we are of the view that once the election process commences and notification in this regard is issued, the Court is not to interfere in the matter as the aggrieved party has the remedy of election petition. In view of Article 243Q of the Constitution, no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

6. In the case in hand, election process had already commenced and the word "election" has to be interpreted to include the entire process of the election which commences from inviting nomination papers and ends with the declaration of the election. This view is based on the observations made in *N.P. Ponnuswami's Case* (supra). The Court would not have interfered in this matter in writ jurisdiction, had the respondent-State brought to our notice that the election process had already commenced.

7. In view of the above observations, the order dated 6th December, 1994 is recalled. Writ petition is dismissed. However, in case the petitioner is left with any grievance in the matter, it will be open to him to challenge the election, in accordance with law.

8. A copy of this order be given dasti under the signatures of the Reader of this Court, Shri H.C. Chhabra.