



IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

ON THE 26<sup>th</sup> OF MARCH, 2025

CIVIL REVISION No. 574 of 2019

*SMT. PREETI GEHLOD*

*Versus*

*M.P. STATE ELECTION COMMISSION AND OTHERS*

**Appearance:**

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*Shri Girish Patwardhan, learned Senior Counsel assisted by Shri Brij Mohan Gehlod, learned counsel for the petitioner.*

*Shri Kamal Nayan Airen, learned counsel for respondent No.1 / State Election Commission.*

*Shri (Dr.) Amit Bhatia, learned Government Advocate for the respondents / State.*

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**O R D E R**

The petitioner has filed the present Civil Revision under Section 441-F(2) of the Madhya Pradesh Municipal Corporation Act, 1956 (in short 'the Act of 1956') challenging the validity of the order dated 23.02.2018 passed by the District Judge, Ujjain, dismissing the election petition.

**FACTS OF THE CASE**

02. The election for the post of Mayor in Ujjain Municipal Corporation was held on 12.08.2015, the result of which was declared on 16.08.2015 and published in the M.P. Gazette Notification dated 22.08.2015. In the election, Smt. Meena Jonwal was declared as Mayor. In the said election, the post of Mayor was



reserved for Scheduled Tribe Category.

2.1. The petitioner submitted her nomination form on 28.07.2015 along with all necessary documents. Respondents No.3 to 7 also submitted their nomination forms. The name of the petitioner was recorded in the voter list of 2015 at Serial No.160 of Ward No.43, Municipal Corporation, Ujjain.

2.2. Respondent No.2 rejected the nomination form of the petitioner on 29.07.2015 as the same was not supported by the caste certificate issued by the Competent Authority of the State of Madhya Pradesh.

2.3. Being aggrieved by the rejection order dated 29.07.2015 and notification of election dated 22.08.2015, the petitioner filed an election petition before the District Judge, Ujjain.

2.4. According to the petitioner, she was born in Sawai Madhopur, Rajasthan in the house of Dr. Arjunlal Bairwa. 'Bairwa' is a Scheduled Tribe in the State of Rajasthan. She possesses a caste certificate of Scheduled Tribe issued by the Competent Authority of the State of Rajasthan. The petitioner was married to Shri Manish Gehlot on 15.05.1998 and since then, she has been residing at Mangli Sadan, 2 – M.I.G., Laxmi Nagar, Ujjain. She became a permanent resident and voter of Ward No.43, Ujjain. According to the petitioner, 'Bairwa' caste is a Scheduled Tribe in the State of Madhya Pradesh as well as in the State of Rajasthan, therefore, respondent No.2 has illegally rejected her nomination form, which deprived her of contesting the election on the post of Mayor.

2.5. Notices were issued in the Election Petition to the respondents. Respondents No.1 & 2 did not file any returns.



Respondent No.3 filed a return by submitting that the petitioner did not submit any caste certificate issued by the Competent Authority of the State of Madhya Pradesh, therefore, she is not entitled to contest the election on a reserved post. The caste certificate issued by the State of Rajasthan is not valid. Rests of the respondent were formal parties and remained *ex parte*.

2.6. The learned District Judge framed four issues for adjudication, evidence was recorded and vide order dated 23.02.2018 dismissed the election petition by holding that the nomination paper of the petitioner had rightly been rejected. Hence, the present civil revision is before this Court.

### **SUBMISSION OF PETITIONER'S COUNSEL**

03. Shri Girish Patwardhan, learned Senior Counsel appearing for the petitioner submits that the 'Bairwa' comes under the category of Scheduled Tribe in the State of Rajasthan as well as in the State of Madhya Pradesh. The petitioner has the caste certificate of Scheduled Tribe from the Competent Authority in the State of Rajasthan, therefore, she was entitled to contest the election to the post which was reserved for Scheduled Tribe.

3.1. Shri Patwardhan, learned Senior Counsel further submits that under Section 24-A(2) of the Madhya Pradesh Nagarpalika Nirvachan Niyam, 1994 (in short 'the Rules of 1994'), the Election Officer is not authorized to reject the nomination form, therefore, rejection of the nomination of the petitioner is illegal and the election petition ought to have been allowed. Learned Senior Counsel submits that the petitioner fulfilled the qualification for contesting the election in view of Sections 16 & 17 of the Act of 1956, therefore, whether



she belongs to a particular category is a matter of enquiry to be conducted in the election petition.

3.2. Shri Patwardhan, learned Senior Counsel further contends that though the election of 2015 is over and the petitioner will not get any relief even if the election is set aside, but this issue decided in the election petition will always come in the way of the petitioner to contest further election under reserved category.

### **SUBMISSION OF RESPONDENT'S NO.1 COUNSEL**

04. Shri Kamal Nayan Airen, learned counsel appearing for respondent No.1 submits that as per guidelines issued by the Election Commission of India in the year 2015, the Election Officer is competent to scrutinize the nomination paper and if any fault is found, he is authorized to reject the nomination paper. Since the petitioner did not submit the caste certificate issued by the Competent Authority of the State of Madhya Pradesh, therefore, her nomination was rightly rejected, as a result, she was not permitted to contest the election on the reserved post. Hence, no interference is liable to be called for and the Civil Revision be dismissed.

### **APPRECIATION & CONCLUSION**

05. The election petition was filed in respect of the election held in the year 2015. The term of the elected candidate has been over long back, thereafter, twice the general election has been held, hence, this civil revision has rendered infructuous. But due to the rejection of the nomination paper on the ground that the petitioner cannot contest the election under the reserved category based on the cast certificate issued by the Competent Authority of the State of Rajasthan, the rejection of nomination on this ground will come in



her way to contest the elections under Scheduled Tribe category in future. Therefore, this issue is liable to be decided *whether the petitioner, who possesses the caste certificate of another State is entitled to contest the election in the State of Madhya Pradesh or not ?*

06. Section 7 of the Act of 1956 provides for the '**Constitution of Municipal Corporation**'. '**Composition of Municipal Corporation**' is provided in Section 9, according to which *Municipal Corporation shall consist of a Mayor, that is Chairperson, elected by direction election from the Municipal area; and Councillors elected by directed election from the wards.* Section 10 provides for '**Determination of number and extent of wards and conduct of elections**'. Section 11 provides for '**Reservation of seats for Scheduled Castes, and Scheduled Tribes in every Municipal Corporation, as nearly as possible, 25% of the total number of wards shall be reserved for other backward class in such Municipal Corporation, 50% or less seats are reserved for SC & ST.** Sub-section (3) of Section 11 provides reservation of 50% seats for women belonging to Scheduled Castes or the Schedules Tribes or other backward classes. Section 11-A was inserted in the year 2007 providing '**Reservation of the office of the Mayor**' in the State of Madhya Pradesh *for the candidates of SC, ST & OBC category.* Sub-section (3) of Section 11-A also provides for reservation of the candidates belonging to SC, ST & OBC categories. Sections 12 & 13 provide for '**Qualification and disqualification of voters**'. Section 16 provides for '**Qualification for election as Mayor or Councillor**' and Section 17 provides for '**General disqualifications**

**for becoming a Councillor'.**

07. So far as the qualification of the petitioner to become a voter, councillor or Mayor is concerned, there is no dispute that she is above 25 years old, a permanent resident and a voter of Ward No.43, hence, she is eligible to contest the election. The only issue which debars the petitioner to contest the election is that she does not possess the caste certificate issued by the Competent Authority of the State of Madhya Pradesh. It is also not in dispute that she belongs to 'Bairwa' caste which is a Scheduled Tribe in the State of Rajasthan as well as in the State of Madhya Pradesh, however, the petitioner possesses the caste certificate issued by the Competent Authority of the State of Rajasthan.

08. So far as the validity of the rejection of a nomination paper by the Election Officer is concerned, Rule 28 of the Rules of 1994 provides for '**Scrutiny of nomination papers**'. As per sub-rule (5) of Rule 28, *the Returning Officer shall hold the scrutiny on the date appointed on this behalf. Sub-rule (6) authorises the Returning Officer to endorse on each nomination paper his decision regarding accepting or rejecting the same and it further provides that if the nomination paper is rejected, he shall record in writing a brief statement of his reasons for such rejection.* The order passed by the Returning Officer shall be final. Therefore, sub-rule (6) of Rule 28 authorises the Returning Officer to reject the nomination form by recording its reasons. Therefore, there is no substance in the argument of Shri Patwardhan that the Returning Officer is not competent to reject the nomination paper.

09. The Madhya Pradesh State Election Commission issued



directions to all the Election Officers for presentation, scrutiny and allotment of nomination paper and allotment symbol in the month of June, 2014. As per Rule 22(7), the nomination paper can be rejected, if the women candidates do not belong to SC, ST & OBC for contesting the election for respective reserved seats. Rule 22 is reproduced below:-

"22. किसी नामनिर्देशन पत्र को निम्नांकित में से किसी आधार पर अस्वीकृत किया जा सकता है:-

(1) अभ्यर्थी मध्यप्रदेश नगरपालिका निगम अधिनियम, 1956 की धारा 16 अथवा मध्यप्रदेश नगरपालिका अधिनियम, 1961 की धारा 34, जैसी भी स्थिति हो, के अन्तर्गत महापौर/अध्यक्ष या पार्षद के स्थान की पूर्ति के लिए निर्वाचित किए जाने के लिये अर्ह नहीं है अर्थात् वह संबंधित नगरपालिका के किसी वार्ड की मतदाता सूची में मतदाता के रूप में रजिस्ट्रीकृत नहीं है। पार्षदों के नामनिर्देशन पत्रों की संवीक्षा के समय यदि यह पाया जाये कि किसी अभ्यर्थी ने एक से अधिक वार्डों के लिए नामनिर्देशन पत्र प्रस्तुत किये हैं तो समय की दृष्टि से सब से पहले जिस वार्ड के लिये नामनिर्देशन पत्र प्रस्तुत किया गया है, केवल उसी वार्ड के नामनिर्देशन पत्र/पत्रों की संवीक्षा की जाए और अन्य वार्डों के लिये प्रस्तुत नामनिर्देशन पत्र सीधे अस्वीकृत कर दिए जाएं।

(2) अभ्यर्थी ने, महापौर/अध्यक्ष के मामले में 25 वर्ष की तथा पार्षद के मामले में 21 वर्ष की आयु पूर्ण नहीं की है।

(3) अभ्यर्थी मध्यप्रदेश नगरपालिका निगम अधिनियम, 1956 की धारा 17 या मध्यप्रदेश नगरपालिका अधिनियम, 1961 की धारा 35, जैसी भी स्थिति हो, के अन्तर्गत निरर्हता ग्रस्त है।

(4) प्रस्तावक नामनिर्देशन पत्र पर हस्ताक्षर करने के लिए अर्हता प्राप्त नहीं है। मध्यप्रदेश नगरपालिका निर्वाचन नियम, 1994 के नियम 25 के परन्तुक के अनुसार जो व्यक्ति मतदाता के रूप में किसी निरर्हता के अधीन है, प्रस्तावक के रूप में किसी नामनिर्देशन पत्र पर हस्ताक्षर करने का पात्र नहीं होगा।

(5) नामनिर्देशन पत्र प्रस्तुत करने में मध्यप्रदेश नगरपालिका निर्वाचन नियम, 1994 के नियम 24, 25 या 26 के उपबंधों का पालन नहीं किया गया है। इन नियमों का उद्धरण परिशिष्ट-तीन में है।

(6) नामनिर्देशन पत्र पर अभ्यर्थी या प्रस्तावक के हस्ताक्षर वास्तविक नहीं है।

(7) अनुसूचित जाति, अनुसूचित जनजाति, अन्य पिछड़े वर्ग और महिलाओं के लिये आरक्षित नगरपालिका/वार्ड के मामले में अभ्यर्थी ऐसी अनुसूचित जाति/अनुसूचित जनजाति/अन्य पिछड़ा वर्ग का सदस्य या महिला, जैसी भी स्थिति हो, नहीं है।

(8) नामनिर्देशन पत्र के साथ मध्यप्रदेश नगरपालिका निर्वाचन नियम 1994 के नियम 24-क में निर्धारित शपथ-पत्र प्रस्तुत नहीं किया है। ऐसी स्थिति में नामनिर्देशन-पत्र निरस्ती योग्य होगा। किन्तु शपथ-पत्र में दी गई किसी जानकारी की जांच नहीं की जाएगी और उस आधार पर नाम निर्देशन-पत्र निरस्त नहीं होगा। नाम निर्देशन-पत्र केवल उसी स्थिति में निरस्त होगा जब नाम निर्देशन-पत्र के साथ शपथ-पत्र प्रस्तुत न किया गया हो।"

10. Now this issue has also no relevance because, after rejection



of nomination paper, the petitioner was not permitted to contest the election, thereafter, she challenged the election by way of election petition and now the learned District Judge has dismissed the election petition.

11. The petitioner is possessing the caste certificate issued by the Competent Authority of the State of Rajasthan and admittedly, the petitioner is not possessing the caste certificate issued by the Competent Authority of the State of Madhya Pradesh.

12. The General Administration Department, State of Madhya Pradesh issued a Circular dated 13.01.2014 to all Sub Divisional Officers, Collector, and Divisional Commissioner in respect of the issuance of caste certificate. Clause 8.11(iii) deals with the issuance of caste certificates, according to which as per Order No.BC-16014/1/82-SC&BCD-1 dated 06.08.1994 issued by the Government of Madhya Pradesh, the facility of the reservation shall be available in the same State from where the caste certificate is issued. The State Government has clarified that the facility of the reservation shall not be available in the State of Madhya Pradesh in absence of the caste certificate issued by the State of Madhya Pradesh. Clause 8.11(iii) is reproduced below:-

"8.11(iii) भारत सरकार, गृह मंत्रालय के आदेश No. BC-16014/1/82-SC&BCD-1 दिनांक 6 अगस्त, 1984 के अनुसार प्रारूप-तीन में जारी जाति प्रमाण पत्र पर आरक्षण की सुविधा उसी राज्य से प्राप्त होगी, जिस राज्य से आवेदक का मूल रूप से संबंध है। मध्यप्रदेश शासन द्वारा देय आरक्षण सुविधा की पात्रता नहीं होगी, किन्तु यह जाति प्रमाण पत्र केन्द्र सरकार की सेवाओं/संस्थाओं आदि में आरक्षण का लाभ प्राप्त करने के लिये मान्य होंगे।"

13. In the case of migrants of the Scheduled Caste & Scheduled Tribe in the other states the apex court in the case of *Action Committee v/s Union of India & Another reported in (1994) 5 SCC 244*, the Apex Court held that the benefit of caste would be available





to them who were migrated before 1950 to the other State.

14. Admittedly, the petitioner migrated in the year 1998 from the State of Rajasthan to Madhya Pradesh after her marriage, therefore, she is not entitled to contest the election on the basis of a caste certificate issued by the Competent Authority of the State of Rajasthan. Hence, respondent No.2 rightly rejected her nomination form and learned District Judge committed no error in dismissing the Election Petition, hence, no interference is called.

15. In view of the above, Civil Revision stands dismissed.

The record be sent back.

(VIVEK RUSIA)  
J U D G E

Ravi