

Des Raj Vs The State of Punjab and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Aug. 13, 1973

Acts Referred: Punjab Agricultural Produce Markets Act, 1961 " Section 10, 12, 13

Citation: AIR 1974 P&H 214

Hon'ble Judges: Bal Raj Tuli, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

1. The Market Committee Abohar, was to consist of 16 members, out of whom 15 were to be elected and 1 to be nominated by the State

Government. Nine out of 15 elected members were to be elected by the producers of the area, 4 were to be elected by persons licensed u/s 10 of

the Punjab Agricultural Produce Markets Act, 1961, (hereinafter called the Act), and 2 members were to be elected by persons licensed u/s 13 of

the Act. Elections to the Market Committee were notified to be held on November 17, 1968. The nomination papers of Shri Hanuman Dass, a

candidate for producer member seat, were rejected by the Election Officer. He filed a writ petition in this court which was allowed on November

15, 1968. In view of paucity of time, the election of producer members was not held on November 17, 1968, but the election of members by the

persons licensed u/s 10 and 13 of the Act were held and respondents 4 to 10 were elected. The result of their election was announced on

November 18, 1968, but their elections were never notified by the State Government, with the result that they never became members of the

Market Committee and in fact it was never constituted. For the election of 9 producer members of the Market Committee, a notification was

issued on May 26, 1970, which was amended by notification dated June 15, 1970. In pursuance of those notifications, the election programme

was notified and the polling was to take place on September 8, 1970. A writ petition (C. W. 2730 of 1970) was filed in this Court challenging the

said notifications which was accepted by Suri, J; on December 1, 1970, on the submission made by the learned Advocate-General for the State of

Punjab that the impugned notifications had been rescinded. The learned Advocate-General also submitted that ""if any fresh notification is issued,

the party aggrieved can have recourse to the remedies available to him in the Court."" In view of this submission, the petitioners withdrew the writ

petition. At that time it was not disclosed by the State Government that similar notification had been issued on November 20, 1970, for holding the

election of 9 producer members and that the date for polling had been fixed as January 10, 1971. Accordingly, the petitioner filed the present

petition for the quashing of that notification. The Motion Bench, while admitting the petition, stayed the holding of the election. The result is that for

about 5 years no Market Committee, Abohar, has been constituted. In these circumstances, there is no use holding piecemeal elections of elected

members for which there is no provision in the Act or the Election Rules. Section 12 of the Act contemplates the constitution of a Market

Committee of all the elected members and the official member at one and the same time. It is the membership of that complete committee that has

to be notified by the State Government. I have, therefore, no choice except to quash the impugned notification dated November 20, 1970. The

State Government is directed to hold fresh elections for all the elected members of the Market Committee, Abohar. This petition is accordingly

accepted with costs. Counsel's fee Rs. 100/- to be paid by the State of Punjab.

2. Petition allowed.