Md. Murtaza Vs The State of Jharkhand and Others

Writ Petition (C) No. 1844 of 2013

Court: Jharkhand High Court

Date of Decision: March 19, 2013

Acts Referred:
Constitution of India, 1950 â€" Article 226, 243, 243ZG#Jharkhand Municipal Act, 2011 â€" Section 540

Hon'ble Judges: Aparesh Kumar Singh, J

Bench: Single Bench

Advocate: Yogendra Prasad, for the Appellant; Saket Upadhyay, JC to AAG, Mr. Sumeet Gadodia and Mr. P.P. Roy, Advocates for EC, Mr. Ray Rajat Nath, Advocate for RMC, for the Respondent

Final Decision: Dismissed

Judgement

Aparesh Kumar Singh, J.
The defect pointed out by the Stamp Reporter, is ignored. Heard counsel for the parties. The petitioner is

seeking a direction upon the respondent State Election Commission to extend the date of completion of exercise of election process under the

powers conferred u/s 540 of the Jharkhand Municipal Act, 2011.

2. The grievance of the present petitioner is that his name does not figure in the electoral roll prepared for Ward No. 18 of Ranchi Municipal

Corporation, though his name appears in the electoral roll of Parliamentary and State Legislative Election. According to the learned counsel for the

petitioner, petitioner is not being allowed to contest the municipal election as a candidate from the ward where he resides as his name does not

appear in the electoral roll of that ward. It further appears from the submission of either of the parties that election for the municipal corporation of

the city of Ranchi and other places have been notified by the State Government vide its notification No. 125 dated 6th of March 2013.

3. The aforesaid facts therefore indicate that the election process has been set rolling by issuance of the notification. Counsel for the respondent-

State Election Commission has relied upon a judgment of the Hon''ble Supreme Court in the case of Anugrah Narain Singh and Another Vs. State

of U.P. and Others, and submits that under the provisions of Article 243-ZG, the High Court should not entertain the writ petition challenging the

electoral process in exercise of its power under Article 226 of the Constitution of India. In support of the aforesaid contention, he refers

paragraph-14 of the said judgment which is quoted hereunder:

14. There are several reasons why these arguments of the writ petitioners should not have been upheld. The High Court overlooked the fact that

no municipal election had been held in the State for nearly ten years and the dates of the elections were fixed under the direction given by the High

Court in another case. Importance of holding elections at regular intervals for panchayats, municipal bodies or legislatures cannot be

overemphasised. If holding of elections is allowed to be stalled on the complaint of a few individuals, then grave injustice will be done to crores of

other voters who have a right to elect their representatives to the local bodies. As a result of the order of the High Court, elections that were going

to be held to the local bodies after a long lapse of nearly ten years were postponed indefinitely. It was pointed out by this Court in the case of

Lakshmi Charan Sen v. A.K.M. Hassan Uzzaman, that: ""...the fact that certain claims and objections are not finally disposed of, even assuming that

they are filled in accordance with law, cannot arrest the process of election to the legislature. The election has to be held on the basis of the

electoral roll which is in force on the last date for making nominations.

4. Counsel for the respondent-Commission submits that earlier also, for the same grievances in respect of Panchayat election held in the year

2010, one of the aggrieved person had approached this court in one of the writ petition being W.P.(C) No. 5641/2010 (Debashish Roy Vs. State

of Jharkhand & others) and this court while disposing of the writ petition, had taken into account that once the electoral rolls have been finally

published and election process has been set in motion, any interference under Article 226 of the Constitution of India, would result in indefinitely

delaying the election process and it will not be possible to comply with the mandate of the Constitution. Consequently, a grave injustice would be

done to thousands and thousands of people who have right to elect their representatives to the local bodies. The instant judgment relied by the

counsel for the respondent-Commission Mr. Gadodia and the provisions of Article 243, were also referred to in the said judgment. After having

heard learned counsel for the parties, it appears that the electoral rolls were published on 31st of January 2013 inviting objections from the persons

by giving ten days notice and thereafter, electoral rolls were finally published for the present election of Municipal Corporation and Municipalities

within the State of Jharkhand on 15th of February 2013. It also appears that election have been notified on 6th of March 2013 by the State

Government under the constitutional mandate to hold it within the specified time in order to ensure observance of one of the basic features of the

Constitution. In these circumstances, the claim of the petitioner to seek extension of the whole electoral process under the powers conferred u/s

540 of the Jharkhand Municipal Act, 2011, is wholly misconceived. The election process once set in motion, it would not be stalled to adjudicate

on the individual disputes / claims / objections, as per the aforementioned judgment in the case of Anugrah Narain Singh (Supra). The election has

to be held, as the electoral rolls have been prepared and finally published after giving opportunity to the persons to file their objection, if any. In

these circumstances, I do not find any reason to exercise my discretionary jurisdiction under Article 226 of the Constitution of India at a stage

when election process has been set in motion by issuance of notification on 6th of March 2013, at the instance of the petitioner.

Accordingly, the writ petition is dismissed.