

Hukam Chand
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is no substance in this contention. The Commissioner can, by evidence collected at his behest or by reason of facts otherwise coming to his knowledge, make up his mind as to the state of the building. It is only after the Commissioner has made up his mind as to the state of the building that he would issue the required notice under section 348 either for the repair of the building or for its demolition or for making it otherwise secure. It is also at that stage that the owner of the building has the right to approach the Commissioner and show that in fact the building is not either in a ruinous condition or so dangerous as to warrant any of the courses. The contention that the Commissioner must inspect the building before issuing the notice is, therefore, not sound.

For the reasons given above, I allow this petition and quash the notices Exhibits C-1 and C-2. The petitioner will have his costs which are assessed at Rs. 100.

B.R.T.

CIVIL MISCELLANEOUS

Before Daya Krishan Mahajan, J.

CHANDGI RAM,—*Petitioner*

versus

THE ELECTION TRIBUNAL AND ASSISTANT DEVELOPMENT COMMISSIONER FOR PANCHAYAT ELECTIONS
AND OTHERS,—*Respondents*

Civil Writ No. 6-D of 1965.

1965
January, 19th.

Delhi Panchayat Raj Rules (1959)—Rule 57—Acceptance of nomination papers of a person convicted of an offence under S. 19 (f) of the Arms Act (XI of 1878)—Whether improper—Delhi Land Reforms Act (VIII of 1954)—S. 153—Conviction of an offence under S. 19(f) Arms Act—Whether involves moral turpitude—Words and Phrases—'Moral turpitude'—Meaning of.

Held, that the possession of an unlicensed fire-arm, which is an offence under section 19(f) of the Indian Arms Act, 1878, is not an offence involving moral turpitude. A person convicted of that offence is not, therefore, disqualified from seeking election to the Gaon Panchayat under section 153 of the Delhi Land Reforms Act,

1954. The acceptance of the nomination papers of a person who had been convicted of an offence under section 19(f) of the Arms Act is, therefore, not improper within the meaning of rule 57 of the Delhi Panchayat Raj Rules, 1959, and his election cannot be set aside on that ground.

Held, that 'moral turpitude' is a phrase which can hardly be accurately defined. It can have various shades of meaning in the various set of circumstances. Normally, as this phrase is understood, it is used in law with reference to crimes which refer to conduct that is inherently base, vile or depraved and contrary to the accepted rules of morality, whether it is or is not punishable as a crime. They do not refer to conduct which before it was made punishable as a crime was generally not regarded as wrong or corrupt.

Civil Writ Petition under Articles 226 and 227 of the Constitution of India praying that this Hon'ble Court may be pleased to declare Rules 57, 58, 59, 60, 61 and 62 of Delhi Panchayat Raj Rules, 1959 and all the rules relating to challenging the election of petitioner to the office of Pradhan, Gaon Sabha, are ultra vires the Delhi Panchayat Raj Act and the Delhi Land Reforms Act and they may be declared as null and void and to quash the impugned order dated 14th December, 1964 and to declare that the petitioner is still in office as Pradhan of Gaon Sabha, Pritampur, Delhi.

YOGESHWAR DAYAL, ADVOCATE, for the Respondent.

K. L. ARORA AND H. K. L. BHAGAT, ADVOCATES, for the Respondent.

ORDER

MAHAJAN, J.—This is a petition under Articles 226 and 227 of the Constitution of India and is directed against the order of Assistant Development Commissioner. Election Tribunal constituted under rule 59 of the Delhi Panchayat Raj Rules, 1959. The petitioner contested the election to the seat of the Pradhan of the Gaon Panchayat of Pritampura in Delhi State. The petitioner was declared as successful candidate. The petitioner's election was called in question by an election petition preferred under rules 57 and 58 of the Delhi Panchayat Raj Rules, 1959. These rules have been framed by the Chief Commissioner, Delhi, under section 102 of the Delhi Panchayat Raj Act.

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One of the grounds on which the election was challenged was that the petitioner had been convicted of an offence under section 19(f) of the Indian Arms Act, he

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being in possession of an unlicensed revolver. The fact that the petitioner was in possession of an unlicensed revolver is not disputed; so also the fact of his conviction under section 19(f). Under rule 57, an election can only be set aside, so far as the present case is concerned, if the result of the election has been materially affected by the improper acceptance or rejection of any nomination or by gross failure to comply with the provisions of the Act or the rules framed thereunder. The only other ground mentioned in the section is that the election has not been a free election by reason that the corrupt practice of bribery or undue influence has extensively prevailed at the election. The Tribunal on the basis of the conviction of the petitioner, has come to the conclusion that there was an improper acceptance of the nomination papers of the petitioner inasmuch as he was not qualified to stand for the election in view of the provisions of section 153 of the Delhi Land Reforms Act, 1954. This section provides that no person shall be entitled to be or remain a member of the Gaon Panchayat, if he is convicted of an offence involving moral turpitude.

The order of the Tribunal is being impugned by the present petition. The learned counsel for the petitioner has raised as many as 5 points; but it is not necessary to advert to all of them excepting the one, on the basis of which the petitioner's election has been set aside, namely, that an offence under section 19(f) is an offence which involves moral turpitude.

The short question that I have to consider is whether the possession of an unlicensed fire-arm, which is an offence under section 19(f), is an offence which involves moral turpitude. 'Moral turpitude' is a phrase which can hardly be accurately defined. It can have various shades of meaning in the various set of circumstances. Normally, as this phrase is understood, it is used in law with reference to crimes which refer to conduct that is inherently base, vile or depraved and contrary to the accepted rules of morality, whether it is or is not punishable as a crime. They do not refer to conduct which before it was made punishable as a crime was generally not regarded as wrong or corrupt. In this connection, reference may be made to 'Words and Phrases', Permanent Edition, Volume 27, page 557. At the same page, there are quotations to the effect that carrying of concealed weapons is not an offence involving moral turpitude.' In *Baleshwar Singh v. District Magistrate and*

Collector, Banaras (1). J. K. Tandon, J., while dealing with this expression held:—

“The expression ‘Moral turpitude’ is not defined anywhere. But it means anything done contrary to justice, honesty, modesty or good morals. It implies depravity and wickedness of character or disposition of the person charged with the particular conduct. Every false statement made by a person may not be moral turpitude, but it would be so if it discloses vileness or depravity in the doing of any private and social duty which a person owes to his fellowmen or to the society in general.”

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In this case, the learned Judge was dealing with the case of a prosecution under section 182 of the Indian Penal Code and it was held that the conviction of a person under this provision would amount to ‘moral turpitude’. No case has been brought to my notice where a conviction under section 19(f) has been held to amount to moral turpitude. In the present case, there is no allegation that the antecedents of the petitioner are such that he is engaged in some nefarious activities for the purpose of which he is carrying the fire-arm. Very often, people keep fire-arms for their personal safety and sometimes, they resort to keeping fire-arms without license when they feel that their status in the society is not such as would enable them to get a license from the authorities. It is a matter of common knowledge that during the British period, the license for a revolver was very rarely granted to a citizen, and it may be that while possessing the unlicensed fire-arm, the petitioner may have been influenced by this consideration. I am, therefore, unable to hold that in the circumstances of this case, the possession of an unlicensed revolver, in any manner, amounts to moral turpitude.

That being so, the very substratum of the order of the Election Tribunal goes and, therefore, this petition must succeed and the impugned order quashed. The petition is allowed and the impugned order is quashed. In the circumstances of the case, however, there will be no order as to costs.

B.R.T.