

Bhartu and others  
v.  
The State  
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1954, they issued a notification under section 12 appointing him a Magistrate of the first class in Gurgaon but refrained from issuing one under section 30. As the express mention of one thing implies the exclusion of another, the express mention of powers of a Magistrate of the first class implies the exclusion of the powers under section 30 of the Code of Criminal Procedure. By investing Mr. Kalia with the powers of a Magistrate of the first class in the Gurgaon District and by declining to reinvest him with powers under section 30 Government manifested an intention on their part that the section 30 powers exercised by Mr. Kalia in the Karnal District should not be exercised by him on his transfer to the Gurgaon District. It has been held in at least one decided case that powers may be withdrawn expressly as well as by implication (*In the matter of Pursooram Borooah* (1)).

For these reasons I am of the opinion that the conviction recorded by Mr. Kalia in the present case must be held to be in excess of the powers conferred upon him. I would accept the petition, set aside the orders of the Courts below and direct that the petitioners be tried afresh in accordance with the provisions of law.

REVISIONAL CIVIL.

*Before Bhandari, C.J.*

GULAB SINGH,—*Petitioner.*

*versus*

PRITAM SINGH, AND OTHERS,—*Respondents.*

**Civil Revision Application No. 254 of 1954.**

*Gram Panchayat Act (IV of 1953)—Section 5(5) (c)—Whether the Tribunal constituted under the Gram Panchayat Act, could set aside the election of a dismissed Head*

1956  
Feb. 23rd

(1) I.L.R. 2 Cal. 117

*Constable in view of the provisions of Section 5(5) (c)—  
“Notify” in Section 5(5) (c), meaning of.*

*Held, that to “notify” one of a fact is “to make it known to him” “or” to inform him by words or notice. It is not necessary that this fact should be made known only by means of a notification in the official gazette.*

*Petition under Article 227 of the Constitution of India for revision of the order of Shri Amir Chand Tuli, Magistrate, 1st Class, Amritsar; dated 15th March, 1954, ordering the removal of Gulab Singh, petitioner, forthwith from the Gram Panchayat at Walla.*

*Election petition under section 10 of the Gram Panchayat Act, 1952, read with Rules 45 and 44 of the Gram Panchayat Election Rules, 1953, against the election of village Walla.*

Y. P. GANDHI, for Petitioner.

H. L. SIBAL, for Respondents.

#### JUDGMENT.

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BHANDARI, C.J. This petition raises the question whether a Tribunal constituted under the Gram Panchayat Act was justified in setting aside the election of the petitioner.

Gulab Singh petitioner was elected a Panch of village Walla of the Amritsar District, on the 2nd July, 1953, but the Authority constituted under the Gram Panchayat Act, 1953, set aside the election on the 15th March, 1954, on the ground that the petitioner was a dismissed Head Constable and that he was debarred, by reason of his dismissal, from standing for election as Panch under the provisions of section 5(4)(c) of the Panchayat Act. The petitioner is dissatisfied with the order of the Authority and has come to this Court under Article 227 of the Constitution.

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Section 5(5)(c) of the Gram Panchayat Act, 1953, declares that no person who is not entered as a voter on the Electoral Roll of the State Legislative Assembly for the time being in force, and pertaining to the Gram Panchayat area, and who has been notified as disqualified for appointment in public service, except on medical grounds, shall be entitled to stand for election as, or continue to be, a Panch.

Two questions arise for decision in the present case, viz :—

- (1) Whether the petitioner was disqualified for appointment in public service on grounds other than medical grounds ; and
- (2) Whether he was notified as disqualified for such appointment.

The first question must be answered in the affirmative. It is common ground that the petitioner was employed as a Head Constable in the Amritsar District in the year 1936. In the year 1941, Mr. J. H. Fearn, a Magistrate of the first class, dismissed the petitioner's complaint under section 107 of the Code of Criminal Procedure by an order in which he observed as follows :—

“ Apart from the very weak nature of his evidence, I am of the opinion that no statement made by this man is worthy of credence, for his cross-examination showed him to be thoroughly bad character. He was dismissed from the Amritsar police force for insubordination and has on two occasions been convicted by a criminal Court and has spent nine months in prison. He is, I think, the prime cause of all this trouble and I consider that his evidence is more or less worthless.”

The authority prescribed under the Act of 1953 recorded the evidence of witnesses and came clearly to the conclusion that the petitioner was dismissed

from the service of the Crown in the year 1936, that he had become disqualified for appointment as a Government servant by reason of his dismissal, and that this disqualification was incurred on grounds of insubordination and not on grounds of ill health. This finding is in accord with the finding which was recorded by Mr. Fearn as long as the year 1942 and I can see no reason for endorsing the view that this finding is not based on any evidence at all or that it is based on misappreciation of evidence.

In regard to the second question, it is argued that even if the petitioner was dismissed from the police force and was disqualified for appointment as a Government servant, his disqualification has not been published in the gazette and cannot therefore be said to have been 'notified' within the meaning of the expression as used in the statute. The expression 'notified' has not been defined in the Act of 1953, and we must therefore endeavour to ascertain the meaning by reference to a standard English dictionary. According to the Shorter Oxford Dictionary the expression 'notify' means "to make known, publish, proclaiming to give notice to ; to inform", I am of the opinion that to "notify" one of a fact is "to make it known to him" or "to inform him by words or notice." It is not necessary that this fact should be made known only by means of a notification in the official gazette.

For these reasons I am of the opinion that the authority prescribed by the Act of 1953, has come to a decision which cannot be said to be manifestly erroneous or unjust. The provisions of law have not been violated and there can therefore be no occasion for me to interfere under Article 227 of the Constitution. The petition must be dismissed with costs ordered accordingly.

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