such as grant of temporary injunction etc. The operation of sub-section (1) of section 13-G is confined to the procedure applicable for the trial of a suit and not to any ancillary matter which does not directly relate to such procedure. Moreover, while defining the powers of the prescribed authority, section 13-I of the Act has scrupulously avoided to refer to order 39 of the Code of Civil Procedure. An Election Tribunal is a specially constituted Court of limited jurisdiction and has no authority to pass any order outside those limits. In the absence of any specific provision to the contrary, an Election Tribunal has no inherent jurisdiction like that vested in an ordinary Civil Court."

In *Kartar Singh* v. *Sub-Divisional Magistrate, Rampura Phul and another* (2), a Single Bench of this Court held that there was no inherent jurisdiction vested in the Election Tribunal to pass stay order.

(5) We are in respectful agreement with the view taken in the aforesaid cases and, therefore, the writ petition is allowed, the impugned order Annexure P.1 is quashed and the prescribed authority is directed to decide the Election petition expeditiously and preferably within a period of six months from today. No costs.

R.N.R.

Before Hon'ble M. R. Agnihotri & N. K. Sodhi, JJ.

CAPT. CHANAN SINGH,—*Petitioner.*

versus

THE ELECTION COMMISSIONER OF INDIA AND OTHERS,—*Respondents.*

Civil Writ Petition No. 5968 *of* 1991.

February 9, 1992.

Constitution of India, 1950—*Arts.* 226/227—*Representation of People Act,* 1951—*Ss.* 10-*A,* 11-*A and* 77—*Failure of a candidate at election to file return of expenses—Return not filed inspite of a notice—Candidate declared to be disqualified—Such result automatic—Opportunity of hearing not granted—Declaration not vitiated on that ground.*

(2) 1981 P.L.J. 202.

Held, that if a statutory provision either specifically or by necessary implication excludes the application of any law or of the principles of natural justice, then the Courts cannot ignore the mandate of the legislature or the statutory authority and read into the concerned provisions the principles of natural justice. In the present case, there is no question of imposition of any punishment or stigma on the basis of any disciplinary proceedings against the petitioner, as the disqualification contemplated by Section 10 A of the Act is a necessary consequence flowing from the failure of the petitioner himself from lodging the account of election expenses within the stipulated period and in the prescribed manner. In fact, the impugned action is not an adjudication of any dispute but the automatic result flowing from the non-observance of the statutory provisions which stand incorporated in the act of the Parliament.

(Para 7)

Held, that all that is required to be done by the Election Commission by exercising jurisdiction under Section 10A is to pass an order inviting the attention of the petitioner to the statutory provisions of Section 10A which are mandatory in nature and no separate reasons are required to be recorded in the order. In fact, the reason for disqualification is inbuilt in the order of disqualification issued under Section 10A of the Act itself, that is, failure to lodge the account of the election expenses. Beyond that the parliament never intended the Election Commission to record any reasons. This would be amply clear from the language employed by the legislature in the very next section, that is, Section 11, where a duty has been cast upon the Election Commission to record the reasons for the purpose of removing any disqualification or for reducing the period of such disqualification. The parliament was fully alive and aware of the situation that thousands of contesting candidates who failed to lodge account of election expenses would necessarily and inevitably incur the disqualification on account of their failure to lodge election expenses under Section 10A of the Act and if for some cogent and valid reasons shown by those candidates, the Election Commission later on decides to remove the disqualification or reduce it. It will have to record its reasons.

(Para 7)

M. S. Sethi, Senior Advocate and P. K. Palli, Senior Advocate with Amit Sethi and Arun Palli, Advocates, *for the Petitioner.*

M. L. Sarin, Advocate-General, Punjab with Alka Sarin, Advocate, *for the Respondents.*

JUDGMENT

M. R. Agnihotri, J.

(1) In November, 1989, general elections to Lok Sabha were held and from 1-Gurdaspur Parliamentary Constituency Capt. Chanan Singh Sidhu also contested. On 28th November, 1989, the result

was declared, but the petitioner lost the election. Still, according to the statutory provisions contained in Sections 77 and 78 of the Representation of the People Act, 1951 (hereinafter called 'the Act'), he was required to keep a separate account of all the expenditure incurred by him in connection with the election between the date on which he was nominated and the date of declaration of the result thereof, and to lodge the same with the District Election Officer within thirty days of the date of declaration of the result, that is, by 28th December, 1989. This account is required to be lodged along with necessary details and supporting documents, that is, vouchers etc., as prescribed under Rules 86(1) and 86(3) of the Conduct of Elections Rules, 1961 (hereinafter referred the as 'the Rules'). The relevant statutory provisions as contained in the Act and the Rules are reproduced below for facility of reference.

Representation of the People Act, 1951 :

"77. *Account of election expenses and maximum thereof.*— (1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof, both dates inclusive.

Explanation 1.—Notwithstanding any judgment, order or decision of any court to the contrary, any expenditure incurred or authorized in connection with the election of a candidate by a political party or by any other association or body of persons or by any individual (other than the candidate or his election agent) shall not be deemed to be, and shall not ever be deemed to have been, expenditure in connection with the election incurred or authorized by the candidate or by his election agent for the purposes of this sub-section :

Provided that nothing contained in this Explanation shall affect :—

(a) any judgment, order or decision of the Supreme Court whereby the election of a candidate to the House of the People or to the Legislative Assembly of a State

has been declared void or set aside before the commencement of the Representation of the People (Amendment) Ordinance, 1974 (Ord. 13 of 1974) ;

(b) any judgment, order or decision of a High Court whereby the election of any such candidate has been declared void or set aside before the commencement of the said Ordinance if no appeal has been preferred to the Supreme Court against such judgment, order or decision of the High Court before such commencement and the period of limitation for filing such appeal has expired before such commencement.

Explanation 3.—For the removal of doubt, it is hereby declared that any expenditure incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (7) of section 123 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorized by a candidate or by his election agent for the purposes of this sub-section.

(2) The account shall contain such particulars, as may be prescribed.

(3) The total of the said expenditure shall not exceed such amount as may be prescribed.

78. Lodging of account with the district election officer.—(1) Every contesting candidate at an election shall within thirty days from the date of election of the returned candidate or, if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates, lodge with the district election officer an account of his election expenses which shall be a true copy of the account kept by him or by him election agent under section 77.

(2) The reference to the district election officer in sub-section (1) shall, in relation to a constituency in a Union territory, be construed as a reference to the returning officer for that constituency."

The Conduct of Elections Rules, 1961.

"86. Particulars of account of election expenses.—(1) The account of election expenses to be kept by a candidate or his election agent under section 77 shall contain the following particulars in respect of each item of expenditure from day to day, namely :—

(a) the date on which the expenditure was incurred or authorized ;

(b) the nature of the expenditure (as for example, travelling, postage or printing and the like) ;

(c) the amount of the expenditure—

(i) the amount paid ;

(ii) the amount outstanding ;

(d) the date of payment ;

(e) the name and address of the payee ;

(f) the serial number of vouchers, in case of amount paid ;

(g) the serial number of bills if any, in case of amount outstanding ;

(h) the name and address of the person to whom the amount outstanding is payable.

(2) A vouchers shall be obtained for every item of expenditure unless from the nature of the case, such as postage, travel by rail and the like, it is not practicable to obtain a voucher.

(3) All vouchers shall be lodged along with the account of election expenses, arranged according to the date of payment and serially numbered by the candidate or his election agent and such serial numbers shall be entered in the account under item (f) of sub-rule (1).

(4) It shall not be necessary to give the particulars mentioned in item (e) of sub-rule (1) in regard to items of expenditure for which vouchers have not been obtained under sub-rule (2).

87. Notice by district election officer for inspection of accounts.—The district election officer shall, within two days from the date on which the account of election expenses has been lodged by a candidate under section 78, cause a notice to be affixed to his notice board, specifying—

(a) the date on which the account has been lodged ;

(b) the name of the candidate ; and

(c) the time and place at which such account can be inspected.

"88. Inspection of account and the obtaining of copies thereof.—Any person shall on payment of a fee of one rupee be entitled to inspect any such account and on payment of such fee as may be fixed by the Election Commission in this behalf be entitled to obtain attested copies of such account or of any part thereof.

89. Report by the district election officer as to the lodging of the account of election expenses and the decision of the Election Commission thereon.—

(1) As soon as may be after the expiration of the time specified in section 78 for the lodging of the accounts of election expenses at any election, the district election officer shall report to the Election Commission—

(a) the name of each contesting candidate ;

(b) whether such candidate has lodged his account of election expenses and if so, the date on which such account has been lodged; and

(c) whether in his opinion such account has been lodged within the time and in the manner required by the Act and these rules.

(2) Where the district election officer is of the opinion that the account of election expenses of any candidate has not been lodged in the manner required by the Act and these rules, he shall with every such report forward to the Election Commission the account of election expenses of that candidate and the vouchers lodged along with it.

(3) Immediately after the submission of the report referred to in sub-rule (1) the district election officer shall publish a copy thereof by affixing the same to his notice board.

(4) As soon as may be after the receipt of the report referred to in sub-rule (1), the Election Commission shall consider the same and decide whether any contesting candidate has failed to lodge the account of election expenses within the time and in the manner required by the Act and these rules.

(5) Where the Election Commission decides that a contesting candidate has failed to lodge his account of election expenses within the time and in the manner required by the Act and these rules it shall by notice in writing call upon the candidate to show cause why he should not be disqualified under section 10A for the failure.

(6) Any contesting candidate who has been called upon to show cause under sub-rule (5) may within twenty days of the receipt of such notice submit in respect of the matter a representation in writing to the Election Commission, and shall at the same time send to the district election officer a copy of his representation together with a complete account of his election expenses if he had not already furnished such an account.

(7) The district election officer shall, within five days of the receipt thereof, forward to the Election Commission the copy of the representation and the account (if any) with such comments as he wishes to make thereon.

(8) If, after considering the representation submitted by the candidate and the comments made by the district election officer and after such inquiry as it thinks fit, the Election Commission is satisfied that the candidate has no good reason or justification for the failure to lodge his account, it shall declare him to be disqualified under section 10A for a period of three

years from the date of the order, and cause the order to be published in the Official Gazette."

(2) In addition to the aforesaid statutory provisions contained in the Act and the Rules, the Election Commission of India has also been issuing from time to time a "Handbook for Returning Officers" containing the brief instructions for the guidance of contesting candidates for lodging their accounts of election expenses, as also the proforma for the maintenance of account of election expenses. According to para 6(h) of Chapter V, a copy of these instructions and the proforma is invariably supplied to every candidate at the time of filing the nomination papers itself.

(3) On 5th January, 1990, the District Election Officer, Gurdaspur, sent his report to the Election Commission as required by Rule 89(1) of the Rules, to the effect that the petitioner had not filed his account of election expenses. Thereupon, the Election Commission, on 25th April, 1990, issued a notice under Rule 89(5) of the Rules calling upon the petitioner to show cause as to why he should not be disqualified under Section 10A of the Act for his failure to lodge the account of his election expenses. He was also required to submit the requisite account within twenty days of the receipt of notice along with his explanation for his failure to lodge the same earlier. In response to the notice, the petitioner submitted his account of election expenses with the District Election Officer, Gurdaspur, on 24th May, 1990. On receipt of the same, the District Election Officer reported to the Election Commission that the account received from the petitioner was neither in the prescribed proforma giving the requisite details nor was the same accompanied by any vouchers as required under Rule 86(3) of the Rules. On 15th June, 1990, the Election Commission sent another notice to the petitioner by registered post requiring him to rectify the defects pointed out by the District Election Officer. After waiting for about three months, on 11th September, 1990, the Election Commission inquired from the District Election Officer, Gurdaspur, as to whether the petitioner had rectified the defects in his account. But on 19th September, 1990, the District Election Officer reported to the Election Commission that the petitioner had not responded to the notice and the defects in the account submitted by him had not been rectified. Thereupon, the Election Commission, on 7th November, 1990, issued the order in exercise of the powers conferred by Section 10A of the Act disqualifying the petitioner for a period of three years, for his failure to lodge the account in the manner required by law, without good reason or justification. As a consequence of the impugned order of the Election Commission, the

petitioner stands disqualified from 7th November, 1990 to 6th November, 1993.

(9) Aggrieved by the aforesaid order of the Election Commission, the petitioner submitted a representation dated 13th April, 1991, under Section 11 of the Act, for the removal of the disqualification imposed upon him. This representation was, however, rejected by the Chief Election Commissioner on 17th April, 1991, and the petitioner was accordingly informed of rejection of his representation on 18th April, 1991. Since fresh elections for the Lok Sabha as also for the Vidhan Sabha in the State of Punjab were announced on 19th April, 1991, the petitioner invoked the writ jurisdiction of this Court by filing the present writ petition on 21st April, 1991. When the petition came up before the Motion Bench on 22nd April, 1991, the following order was passed :—

> "Notice of motion for 29th April, 1991. *Dasti* also. On the said date, the petitioner would produce the copies of orders of the Election Commission, dated 7th November, 1990 and 17th April, 1991. In the meantime, he would be allowed to file his nomination papers for the election in question and the same would not be rejected till further orders.

April 22, 1991.

I. S. Tiwana,
Judge.

B. S. Nehra,
Judge.

Against the aforesaid order, the Election Commission filed a special leave petition before the Hon'ble Supreme Court on 2nd May, 1991. The Hon'ble Supreme Court granted the special leave petition and stayed operation of the interim direction issued by the Motion Bench of this Court on 22nd April, 1991. However, the aforesaid appeal against the interim order of this Court was dismissed as infructuous on 4th October, 1991, and the matter came to this Court again for disposal of the main writ petition in accordance with law. The said order dated 4th October, 1991, is as under :—

> "Learned counsel appearing for the Election Commission of India submits that the present appeal has been filed against an interim order passed by the High Court. The main writ petition is still pending before the High Court

for final disposal. Learned counsel states that in view of the fact that the notification dated 19th April, 1991 issued for holding elections in the State of Punjab has been withdrawn, the present appeal has become infructuous and as such the same may be disposed of accordingly. In view of the above circumstances, we dispose of the appeal as having become infructuous. This order will not come in the way of disposal of the main writ petition by the High Court in accordance with law.

N. M. Kasliwal, J.
M. M. Punchhi, J."

New Delhi,
October 4, 1991.

When the matter came up for final hearing on 5th December, 1991, before the learned Single Judge, he referred the same to be decided by a larger Bench, and on that reference the matter has been placed before us. The aforesaid reference order dated 5th December, 1991, is reproduced as under :—

"The petitioner, who contested election from the Gurdaspur Parliamentary Constituency-I in November, 1989, is aggrieved by the order dated November 7, 1990 (Annexure R.7) by which he was disqualified for a period of three years and the order dated April 17, 1991 (Annexure R.8) by which his representation has been rejected by the Commission.

The matter had come up before me on November 28, 1991. On that date a contention had been raised that under section 11 of the Act the case had to be decided by the Election Commission and not by the Chief Election Commissioner alone. Accordingly, the case was adjourned till today. Today Mr. Sarin, appearing on behalf of the respondents, has shown the copies of various notifications to Mr. Palli. It appears that the Election Commission is in fact a one man Commission. Consequently, the plea is not pressed by Mr. Palli. It is, therefoore, not necessary to go into this question any further.

Today, Mr. Palli, learned counsel for the petitioner, has contended that the order dated April 17, 1991, is vitiated as the Election Commission had not assigned any reason for rejecting the representation submitted by the petitioners.

Mr. M. L. Sarin, learned Advocate-General appearing for the respondents, contends that Section 11 does not require the Commission to record any reason whatsoever. According to the learned counsel, it is only when the Commission accepts a representation and removes any disqualification or reduces the period of any such disqualification that it is required to record reasons. It is not disputed that the representation submitted by the petitioner was competent under Section 11. However, it is contended that the Commission was not required to record any reason before disposing of the representation, or passing any order *suo motu*.

A copy of the representation has been produced as Annexure P.9. Various contentions have been raised in the representation. It was disposed of by the Commission with the following observations :—

'I do not agree. I see no reason to remove the disqualification.'

For consideration of the question raised, it is appropriate to notice Sections 10A and 11, which provide as under:—

Section 10.*A* : Disqualification for failure to lodge account of election expenses.—

If the Election Commission is satisfied that a person—

(a) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act, and

(b) has no good reason or justification for the failure the Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.'

Section 11 : Revoval or reduction of period of disqualification.—The Election Commission may, for reason to be recorded, remove any disqualification under this Chapter except under Section 8A or reduce the period of any such disqualification.'

Failure to lodge an account of election expenses attracts the serious consequence of being disqualified for a period of three years from contesting the election. It is in view of the serious consequence that the Legislature has burdened the Election Commission with the duty of examining the matter and recording the satisfaction before a person earns the disqualification from contesting as election. Further more, a provision has been made in Section 11 by which the Commission has been authorised to remove or reduce the disqualification.

The necessity for recording reasons has been emphasised by courts since the hoary past. This is so not because of any positive requirement of a statute, but the requirement is based on the principles of natural justice. Any authority which decides a matter should disclose the process of reasoning so that the citizen, who has a right to resort to an appropriate remedy may be able to make an effective challenge to the order. If judicial or *quasi judicial* authority passes a laconic order without disclosing the process of reasoning, the right to even a constitutional remedy like the one under Article 226, may become illusory. In cases where jurisdiction of a Civil Court is expressly barred and the writ Court is debarred from examining the disputed questions of fact, the recording of reasons becomes all the more important. *Prima facie*, I am of the opinion that every authority exercising statutory powers whose orders may affect the civil rights of the citizen must disclose the process of reasoning while deciding a matter. Otherwise, the action may invite the criticism of being arbitrary.

Learned counsel for the parties point out that there is no authoritative pronouncement of this Court or the Apex Court or even any other High Court wherein the provisions of Section 11 of the Act may have been considered. Keeping in view the importance of the issue in question, I am of the opinion that the matter should be decided by a larger Bench.

The papers of the case may be laid before my Lord the Chief Justice for necessary orders. Keeping in view the fact that the matter is urgent and requires to be decided expeditiously, my Lord the Chief Justice might consider

the desirability of ordering the matter to be listed immediately or at an early date. Copies of the order may be given *Dasti* to the learned counsel for the parties.

December 5, 1991.

Sd/-
Jawahar Lal Gupta, J."

(5) When the case came up before us, the learned counsel for the petitioner moved C.M. No. 487 of 1991, praying therein that as there has been a fresh announcement of the general elections in the State of Punjab, both for the Lok Sabha as well as the State Vidhan Sabha, the petitioner may be permitted to file his nomination papers during the pendency of the writ petition. Notice of the miscellaneous application was given to the counsel for the Election Commission for 22nd January, 1992, but no order was passed thereon as we had taken up the main writ petition for final hearing. The arguments have been continuing for a number of days which have concluded on 23rd January, 1992, and we have reserved the judgment to be pronounced on 5th February, 1992. Since the last date for filing the nomination papers for the Parliamentary/Assembly constituencies was expiring on 1st February, 1992, in the interest of justice, we disposed of the said miscellaneous application by passing the following interim order :—

"After hearing the learned counsel for the parties and keeping the interest of justice and balance of convenience in view, we allow this miscellaneous application and permit the petitioner to file his nomination papers for contesting the elections in the Parliamentary/Assembly Constituency in the forthcoming elections for which notification has already been issued on 25th January, 1992, and for which the last date of filing the nominations is 1st February, 1992. If he filed his nomination papers, the same shall not be rejected solely on the ground that he stands disqualified by the Election Commission by its order dated 7th November, 1990.

DASTI

This order shall be subject to the final decision of the writ petition in which final arguments have concluded.

x x x

Sd/-
M. R. Agnihotri, J.
Sd/-
N. K. Sodhi, J.

January 31, 1992.

The learned counsel for the petitioner has raised the following two contentions :—

(1) That the power conferred by Section 10A of the Representation of the People Act, on the Election Commission is a judicial/*quasi*-judicial power, and even if it is an administrative power, the rules of natural justice necessitate the holding of a proper inquiry, affording of a reasonable opportunity and the passing of a reasoned detailed order by the Election Commission, before the petitioner could be disqualified under Section 10A *ibid;* and

(2) That the impugned order is arbitrary and violative of Section 10A of the Act itself as on facts the Election Commission should have felt satisfied that the petitioner had duly lodged the account of election expenses incurred by him in time and in proper form, as required by law, that is, the Act and the Rules made thereunder, and as there had been a change in the petitioner's residential address, he had not received any notice from the Election Commission for the rectification of any defects, etc.

(6) In support of his first contention the learned counsel for the petitioner has taken great pains in citing judgments of the Hon'ble Supreme Court as well as this Court and various other High Courts in the country, pronounced right from the enforcement of the Constitution, that is, starting from the leading case on the subject, reported as *Province of Bombay* v. *Khushaldas S. Advani (since deceased) etc.* (1), wherein it was held by their Lordships as under:—

"When the executive authority has to form an opinion about an objective matter as a preliminary step to the exercise of a certain power conferred on it, the determination of the objective fact and the exercise of the power based thereon are alike matters of an administrative character and are not amenable to the writ of *certiorari.* When the law under which the authority is making a decision, itself requires a judicial approach, decision will be *quasi-judicial.* Prescribed forms of procedure are not necessary to make an inquiry judicial, provided in coming to

(1) A.I.R. (37) 1950 S.C. 222.

the decision the well-recognised principles of approach are required to be followed.

Therefore, wherever any body of persons having legal authority to determine questions affecting rights of subjects and having the duty to act judicially, act in excess of their legal authority a writ of *certiorari* may issue."

Though it is not necessary to deal with all the judgments cited by the learned counsel, yet to be fair to him, the same are enumerated hereafter : *Harinagar Sugar Mills Ltd.* v. *Shyam Simder Jhunjhunwala and others* (2), *Bhagat Raja* v. *UOI* (3), *Sahela Ram v. State of Punjab* (4), *Testeels Ltd.* v. *N. M. Desai Conciliation Officer and another* (5), *Bakhtawar Singh* v. *State of Punjab and others* (6), *The State of Punjab* v. *Bakhtawar Singh and others* (7), *Smt. Meneka Gandhi* v. *Union of India and another* (8), *Mohinder Singh Gill and another* v. *The Chief Election Commissioner, New Delhi and others* (9), *Dhartipakar Madan Lal Agarwal* v. *Shri Rajiv Gandhi* (10), *Lakshmi Charan Sen and others* v. *A.K.M. Hassan Uzzaman and others* (11) and *The Election Commission of India* v. *N. G. Ranga and others* (12).

(7) The law laid down by the Hon'ble Supreme Court is binding on all the Courts and Tribunals in the country and by now it has become axiomatic that an authority acting judicially, quasi-judicially as also an administrative authority performing constitutional functions is duty bound to comply with the principles of natural justice while adjudicating upon the rights of the parties and while considering the explanation or before taking any penal or disciplinary action against a citizen by rejecting his explanation.

(2) A.I.R. 1961 S.C. 1669.
(3) A.I.R. 1967 S.C. 1606.
(4) A.I.R. 1968 P&H 127 (F.B.).
(5) A.I.R. 1970 Gujrat 1.
(6) A.I.R. 1971 P&H 220.
(7) 172 S.L.R. 85 (S.C.).
(8) A.I.R. 1978 S.C. 597.
(9) A.I.R. 1978 S.C. 851.
(10) A.I.R. 1987 S.C. 1577.
(11) A.I.R. 1985 S.C. 1233.
(12) A.I.R. 1978 S.C. 1609.

But the position is wholly different in the present case. As has been laid down by their Lordships of the Supreme Court in *Union of India* v. *J. N. Sinha* (13), if a statutory provision either specifically or by necessary implication excludes the application of any law or of the principles of natural justice, then the Courts cannot ignore the mandate of the Legislature or the statutory authority and read into the concerned provisions the principles of natural justice. In the present case, there is no question of imposition of any punishment or stigma on the basis of any disciplinary proceedings against the petitioner, as the disqualification contemplated by Section 10A of the Act is a necessary consequence flowing from the failure of the petitioner himself from lodging the account of election expenses within the stipulated period and in the prescribed manner. In fact, the impugned action is not an adjudication of any dispute but the automatic result flowing from the non-observance of the statutory provisions which stand incorporated in the Act of the Parliament. Therefore, it is not the Election Commission which has disqualified the petitioner but the petitioner has himself incurred the disqualification under the statute. If a citizen wants to contest election for Parliament or State Assembly, he is supposed to comply with the election law and if by his acts of omission or commission, a disqualification follows, then only he is to blame and none else. **Therefore,** all that is required to be done by the Election Commission by exercising jurisdiction under Section 10A is to pass an order inviting the attention of the petitioner to the statutory provisions of Section 10A which are mandatory in nature and no separate reasons are required to be recorded in the order. In fact, the reason for disqualification is inbuilt in the order of disqualification issued under Section 10A of the Act itself, that is, falure to lodge the account of the election expenses. Beyond that the Parliament never intended the Election Commission to record any reasons. This would be amply clear from the language employed by the Legislature in the very next section, that is, Section 11, where a duty has been cast upon the Election Commission to record the reasons for the purpose of removing any disqualification or for reducing the period of such disqualification. The Parliament was fully alive and aware of the situation that thousands of contesting candidates who failed to lodge account of election expenses would necessarily and inevitably incur the disqualification on account of their failure to lodge election expenses under Section 10A of the Act and if for some cogent and valid reasons shown by those candidates, the Election Commission later on decides to remove the

(13) A.I.R. 1971 S.C. 40.

disqualification or reduce it, it will have to record its reasons. In this view of the matter, the first contention of the learned counsel is wholly without any merit and the same is repelled.

(8) The second contention of the learned counsel for the petitioner is also without any merit as the impugned order of the Election Commission is not arbitrary at all, rather it is fully based on the material available on the record. In order to appreciate the contention of the learned counsel and to avoid any mis-carriage of justice, the record of the Election Commission has been thoroughly scanned with the help of the learned counsel. As a result thereof, we have found that the petitioner had time and again been asked to lodge the return of his election expenses in the prescribed manner by furnishing the necessary particulars with details, but the petitioner failed to comply with the same. The plea made by him that he never received the notices or communications sent by the Election Commission from time to time as the same had not been sent at the Chandigarh address of the petitioner, which address he had disclosed to the Election Commission, is neither plausible nor has it been substantiated on record. On the other hand, in para 11 of the written statement filed on behalf of the Election Commission, it has been categorically stated that "the petitioner never informed the Commission that his postal address for the purposes of communication was as mentioned in the para under reply. Therefore, the copy of the Commission's order dated 7th November, 1990 was sent at his village and address as given by him in his nomination paper." A supplementary affidavit, along with copies of postal receipts has also been filed by the Secretary of the Election Commission to the effect that the notice sent to the petitioner was by registered post which was duly received by the petitioner at his given address. In order to cover his own lapse, the petitioner filed a counter-affidavit that it was never received by him and that copy of the instructions and the proforma for the maintenance of accounts of election expenses were never supplied to him at the time of filing the nomination papers. Reliance has also been placed on the Division Bench judgment of this Court reported as *S. Sampuran Singh* v. *Chief Settlement Commissioner and another* (14), to contend that substituted service in newspaper, against claimant regarding hearing on different dates before different authorities, was no service in the eyes of law, as the notice should ordinarily be served personally on the person concerned. In the present case, there was no question of any substituted service

(14) A.I.R. 1960 Punjab 153.

by citation in newspaper as was the matter before the learned Judges dealing with the aforesaid case. All communications sent by the Election Commission were sent by name to the petitioner individually at the address given by him, that is, the village of his constituency. Moreover, it was not a case of one single opportunity afforded to the petitioner but a number of times the petitioner had been asked to comply with the provisions of law which he failed to do. Therefore, his plea that once the petitioner had submitted his account of election experts in whatever form, the order of the Election Commissioner in disqualifying him was arbitrary, as it could not insist upon the petitioner to file the same in the prescribed manner is wholly untenable in law. When the law required the petitioner to lodge the account of election expenses in the prescribed manner, it was incumbent upon the petitioner to lodge the same in that very manner. Failure to do so would entail the necessary disqualification under the law, as has already been approved by the Hon'ble Supreme Court in the case of *Sucheta Kriplani* v. *S. S. Daulat and others* (15) and in *N. G. Ranga's case* (supra).

(9) In view of the aforesaid factual and legal position, we do not find any merit in the writ petition which is dismissed with no order as to costs. As a necessary consequence, our interim order dated 31st January, 1992, passed in C.M. No. 487 of 1991 automatically stands revoked without conferring any right on the petitioner in law, even if in pursuance thereof he has already filed his nomination papers for any Parliamentary or Assembly Constituency.

R.N.R.

Before Hon'ble S. D. Agarwala & N. K. Sodhi, JJ.

M/S SWADESH RUBBER INDUSTRIES,—*Petitioner.*

versus

SARDAR SINGH AND OTHERS,—*Respondents.*

Letters Patent Appeal No. 685 of 1993

January 5, 1994.

Letters Patent Appeal, 1919—Clause X—Punjab Land Revenue Act—Ss. 91, 79 and 83—Application to Commissioner to set aside sale on certain grounds—Sale not complete unless Collector accepts

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(15) A.I.R. 1955 S.C. 758.