

CIVIL MISCELLANEOUS

Before Prem Chand, Pandit, J.

ARJAN SINGH,—Petitioner.

versus

GUDAR SINGH,—Respondent.

Civil Miscellaneous No. 1870 and 1871 of 1961.

1961
November, 24th.

Punjab Gram Panchayat Act 1952 (IV of 1953)—Section 6(5)(j)—Candidate for election as a Sarpanch owing no arrears of tax to the Gram Panchayat to which he seeks election, but owing arrears of tax to another Gram Panchayat—Whether eligible for election.

Held, that a bare reading of clause (j) of section 6(5) of the Punjab Gram Panchayat Act, 1952 (Act IV of 1953), leaves no manner of doubt that only that candidate is disqualified for election as a Sarpanch, who has not paid the arrears of the tax imposed by the Gram Panchayat, to which he is seeking election. The word “the” used before the words “Gram Panchayat” clearly indicates that the reference is to the Gram Panchayat, to which election is being held. If the legislature had used the word “any” instead of the word “the”, then the interpretation sought by the petitioner might have been correct. The idea behind this seems to be that a person, who is going to be elected to a Panchayat, should not be in arrears of a tax imposed by that very Panchayat.

Petition under Article 227 of the Constitution of India praying that the order dated 19th July, 1961, by the Prescribed Authority, Ferozepur, allowing the election petition of the respondent and setting aside the election of the petitioner as a sarpanch of the Gram Panchayat and ordering fresh election for office of Sarpanch of Panchayat of village Palla Megha be quashed.

J. N. SETH, ADVOCATE, for the Petitioner.

K. L. KAPUR, ADVOCATE, for the Respondent.

ORDER

PANDIT, J.—This is a petition under Article 227 of the Constitution of India for quashing the order, dated 19th July, 1961, passed by the Prescribed Authority under section 8 of the Punjab Gram Panchayat Act, 1952, allowing the election petition of the respondent and setting aside the election of the petitioner as a Sarpanch of the Gram Panchayat of village Palla Megha (district Ferozepur) and ordering fresh election for the same.

Pandit, J.

It appears that on 29th November, 1960, two persons, namely, Gudar Singh, and Arjan Singh, filed nomination papers for election as a Sarpanch for the Gram Panchayat of Palla Megha. The Returning Officer accepted the nomination paper of the respondent, Arjan Singh, and rejected that of Gudar Singh, on the ground that he had not paid the arrears of the *chulha* tax. Thereupon, Gudar Singh, filed an election petition under section 8 of the Act. The Prescribed Authority held that his nomination paper had been wrongly rejected, because no arrears of the *chulha* tax were due from him to the Gram Panchayat of village Palla Megha. He further held that the improper rejection of his nomination paper had materially affected the result of the election and, consequently, he set aside this election and ordered fresh election of the Sarpanch for this Gram Panchayat. Against this order, the present petition has been filed by Arjan Singh, who had been declared elected as a Sarpanch.

It is common ground that Gudar Singh, belonged to village Kamalwala, which was included in the Gram Panchayat of village Langiana, when the first general elections of the Panchayats were held. In the present elections, however, this village had been included in the Sabha area of village Palla Megha. It is not disputed that he had not paid the *chulha* tax due from him to the Gram Panchayat of village Langiana. It is also undisputed that no arrears of *chulha* tax were due

Arjan Singh
v.
Gudar Singh

Pandit, J.

from him to the Gram Panchayat of village Palla Megha, to which the present election related. The sole question for determination is whether a candidate standing for election as a Sarpanch should not be in arrears of the tax in regard to that very Panchayat to which he is seeking election or he should not be in arrears regarding any Panchayat constituted under the Act. This question will depend on the interpretation of the provisions of section 6(5) (j) of the Act, which are in the following terms—

“S. 6(5). No person who is not a member of the Sabha and who—

* * * *

(j) has not paid the arrears of the tax imposed by the Gram Panchayat;

* * * *

shall be entitled to stand for election as, or continue to be a Sarpanch or Panch.”

A bare reading of this section, in my opinion, leaves no manner of doubt that only that candidate is disqualified for election as a Sarpanch, who has not paid the arrears of the tax imposed by the Gram Panchayat, to which he is seeking election. The word “the” used before the words “Gram Panchayat” clearly indicates that the reference is to the Gram Panchayat, to which election is being held. If the legislature had used the word “any” instead of the word “the”, then the interpretation sought by the petitioner might have been correct. The Legislature in this very sub-section has used the word “any”, wherever it wanted to do so. This would be clear from the provisions of clause (g) of this very sub-section, which runs thus—

* * * *

(g) is a whole-time salaried servant of any local authority or State of the Union of India;

Arjan Singh
v.
Gudar Singh

Pandit, J.

* * * * *
* * * * *

The idea behind this seems to be that a person, who is going to be elected to a Panchayat, should not be in arrears of a tax imposed by that very Panchayat. As I have already mentioned above, in the present case, it is admitted that no *chulha* tax was due from Gudar Singh to the Gram Panchayat of village Palla Megha. His nomination paper had, therefore, been wrongly rejected. It is undisputed that an improper rejection of a nomination paper materially affects the result of an election. The order passed by the Prescribed Authority, therefore, was perfectly correct and I see no ground to interfere with the same.

The present petition, therefore, fails and is dismissed. There will, however, be no order as to costs in this Court as well.

B.R.T.

CIVIL MISCELLANEOUS

Before Inder Dev, Dua, J.

DHARAM CHAND,—*Petitioner.*

versus

THE STATE OF PUNJAB AND OTHERS,—*Respondents*

Civil Writ No. 1267 of 1961

Municipal Election Rules (1952)—Rule 7(g)—Service of special demand in respect of arrears—Whether necessary to be served before incurring disqualification—Interpretation of statutes—Directory and mandatory nature of the provisions of law—How to be determined.

1961

December, 1st.