

Shri Rajdutt Gehlot vs Government Of Nct Of Delhi & Anr on 23 December, 2020

Author: Navin Chawla

Bench: Navin Chawla

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 10927/2020
SHRI RAJDUTT GEHLOT

Through: Mr. Sanjay Poddar, Sr. A
Sanjeev Sagar, Ms. Nazia
and Mr. Harshvardhar, Ad

versus

GOVERNMENT OF NCT OF DELHI & ANR. Respondents

Through: Mr. Ramesh Singh, Standing Counsel,
Mr. Gautam Narayan, ASC
Ms. Bhawna Kataria, Adv.
Ms. Asmita Singh, Ms. Ritika Vohra,
Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA
ORDER

% 23.12.2020 This petition has been heard through video conferencing. CM APPL. 34210/2020 (Exemption) Allowed, subject to all just exceptions.

W.P.(C) 10927/2020 & CM APPL. 34209/2020

1. On the objection of the counsel for the respondents, the learned senior counsel for the petitioner prays for deletion of the respondent no.2 from the array of parties. Let an amended Memo of Parties be filed within two days.

2. Issue notice.

3. Notice is accepted by Mr. Ramesh Singh, learned Standing Counsel on behalf of the respondents. Counter affidavit be filed within a period of two weeks. Rejoinder, thereto if any, be filed within two weeks thereafter.

4. The learned senior counsel for the petitioner drawing reference to the statement of Objects and Reasons appended to the Constitution 74th Amendment, submits that Part IXA of the Constitution

was inserted with the object of constitution of Municipalities as bodies of self-governance. He submits that while legislative control over these bodies is with the State Government, it does not extend to superintendence over the functioning of these Municipalities, which have to be, as noted hereinabove, bodies of self-governance. He submits that the impugned order dated 18.11.2020 and the subsequent notices dated 04.12.2020 and 16.12.2020 would therefore, be beyond the jurisdiction of the respondent.

5. As far as his locus is concerned, placing reliance on Section 45, 47, 205, 206 (1) of the Delhi Municipal Corporation Act, 1957, he submits that being the Chairman of the Standing Committee, which has the overall control over the financial affairs of the Municipality, he would have the locus to challenge the impugned orders.

6. On the other hand, the learned counsel for the respondents has placed reliance on Rules 160 and 172 of the Rules of Procedure and Conduct of Business in the Legislative Assembly of the National Capital Territory of Delhi, 2013, to submit that the Hon'ble Speaker of the Legislative Assembly of the State is empowered to constitute committees and such committees are empowered to take evidence or call for papers, records or documents. He submits that therefore, the competence of the Speaker to constitute the committee on Municipalities and of such committee to call for documents from the Municipalities cannot be called in question. In this regard, he also places reliance on Sections 33 and 37 of The Government of National Capital Territory of Delhi Act, 1991 to submit that the rules of procedure may provide for financial matters including appropriation of monies out of Consolidated Fund of the Capital and that the Courts would not enquire into the proceedings of the Legislative Assembly including the orders impugned herein on any alleged irregularity of such procedure. He has also placed reliance on the judgments of the Supreme Court in *Raja Ram Pal v. Hon'ble Speaker, Lok Sabha & Ors*, (2007) 3 SCC 184 and *Ramdas Athawale(5) v. Union of India & Ors*, (2010) 4 SCC 1. He further submits that in fact, this Committee has been in existence since 10.06.2016 and that some of the documents asked for by the impugned notices have been submitted by the Corporations.

7. I have considered the submissions made by the learned counsels for the parties. Prima facie, the locus of the petitioner to maintain the present petition in his capacity as the Chairman of the Standing Committee of the South Delhi Municipal Corporation can be maintained especially taking into account the powers and duties of such Standing Committees as provided under Section 205 and 206 of the Delhi Municipal Corporation Act, 1957.

8. As far as the impugned constitution of the Committee and the subsequent notices are concerned, a perusal of the documents sought for by the Committee in the impugned notices would, prima facie, reflect their intent to exercise the powers of superintendence over the accounts of the Delhi Municipal Corporation. It is the power and duty conferred upon the Standing Committee under Section 205 of the Delhi Municipal Corporation Act and would, prima facie, appear to infringe upon the separation of powers and self-governance sought to be introduced by the insertion of Part IX-A to the Constitution of India. The question will not be simply one of irregularity of procedure being adopted by such Committee, but of its powers under the scheme of Constitution, The Government of NCT of Delhi Act and the Delhi Municipal Corporation Act, 1957.

9. In view of the above, the operation of the impugned notice dated 04.12.2020 shall remain stayed till the next date of hearing.

10. List on 9th February, 2021.

11. Copy of the orders be supplied to the learned counsels for the parties on the e-mail address provided.

NAVIN CHAWLA, J DECEMBER 23, 2020 dy