

Jaspal Singh Arora vs State Of M.P. And Ors. on 21 July, 1997

Equivalent citations: (1998)9SCC594, AIRONLINE 1997 SC 207, 1998 (9) SCC 594

Bench: J.S. Verma, B.N. Kirpal

ORDER

1. The election of the petitioner Jaspal Singh Arora as President of the Municipal Council, Sehore was challenged by a writ petition filed under Article 226 of the Constitution by one Mahesh Chourasia who was a defeated candidate at the election. That writ petition was dismissed by the High Court on the ground that the statutory remedy of challenging the election by an election petition was available under the M.P. Municipalities Act, 1961 (for short "the Act") and, therefore, the writ petition could not be entertained. Thereafter, another writ petition was filed by Laxmi Narayan Rathor (Respondent 4 herein) to the same effect. The High Court by the impugned order dated 13-5-1997 has allowed that writ petition and set aside the election of the petitioner.

2. Leave granted.

3. These appeals must be allowed on a short ground. In view of the mode of challenging the election by an election petition being prescribed by the M.P. Municipalities Act, it is clear that the election could not be called in question except by an election petition as provided under that Act. The bar to interference by courts in electoral matters contained in Article 243-ZG of the Constitution was apparently overlooked by the High Court in allowing the writ petition. Apart from the bar under Article 243ZG, on settled principles interference under Article 226 of the Constitution for the purpose of setting aside election to a municipality was not called for because of the statutory provision for election petition and also the fact that an earlier writ petition for the same purpose by a defeated candidate had been dismissed by the High Court.

4. Consequently, the appeals are allowed. The impugned order dated 13-5-1997 passed by the High Court is set aside resulting in the dismissal of the writ petition filed by Respondent 4 in the High Court. In the circumstances of the case, we also direct Respondent 4 to pay to the appellant Rs 5000 as costs.