

C. Satyanarayana Vs. the Secretary, Housing Municipal Administration and Urban Development Department, Government of Andhra Pradesh, Hyderabad and ors.

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Court : Andhra Pradesh

Decided On : Feb-21-1980

Reported in : AIR1981AP81

Judge : Lakshmaiah and ;Punnayya, JJ.

Acts : Hyderabad Municipal Corporations Act, 1956; Hyderabad Municipal Corporations (Amendment) Act, 1979 - Sections 3, 8 and 8(1); [Constitution of India](#) - Article 14

Appeal No. : Writ Petn. No. 525 of 1980

Appellant : C. Satyanarayana

Respondent : The Secretary, Housing Municipal Administration and Urban Development Department, Government of Andh

Advocate for Def. : K. Janardhanarao, Standing Counsel

Advocate for Pet/Ap. : S.A. Gaffoor, Adv.

Disposition : Petition dismissed

Judgement :

Punnayya, J.

1. The petitioner is a voter in Boudhnagar Constituency of Hyderabad Municipal Corporation. A Notification in G. O. Ms. No. 1079 published in the Andhra Pradesh Gazette No. 276 dt. 12-11-79 was issued for holding elections for Hyderabad-Secunderabad Municipal Corporation in or about April, 1970. But the Boudhnagar Constituency was declared to have been reserved for women contestants under Section 8 (1)(c) of the Hyderabad Municipal Corporation (Amendment) Act of 1979. The petitioner contends that Boudhnagar Constituency consists of less women population than the Constituency No. 95 Chilkalguda Ward No. 11. Blocks Nos. 1 and 4 and Constituency bearing No. 96 called Miryalguda Constituency. While Boudhnagar Constituency consists of 6,176 women as against 9,550 men, Constituency No. 95 Chilkalguda consists of 3,163 women population as against 3,329 male population and Miryalguda Constituency consists of 5,384 women as against male population of 5,632 and hence the Miryalguda Constituency should have been reserved for women on the basis of highest women population. By the Notification G. O. Ms. No. 1079 dated 12-11-1979, the Boudhnagar Constituency is reserved for women on the ground that it has largest population of both men and women put together. As the reservation for Scheduled Castes and Scheduled Tribes was made on the basis of largest population of Scheduled Castes and Scheduled Tribes, the petitioner contends that the principle followed in the case of reservation of the constituencies for Scheduled Castes and Scheduled Tribes is not followed in the case of reservation for women and hence the amendment is discriminatory and it offends Article 14 of the [Constitution of India](#), as no intelligible differentia is disclosed for such reservation irrespective of women population and thus the object of the amendment to provide for greater representation to women is not achieved by the amendment. The petitioner further contends that as he intends to contest the election from Boudhnagar Constituency and he has very good chances of succeeding in the forthcoming elections from the said constituency, his interests are jeopardised by reason of the said unjust, classification and reservation for women and hence the amendment is ultra vires. Though representations were made before the respondents questioning the

validity of the amendment, the respondents paid no attention and ignored the representations made by the petitioner and several others and they proposed to proceed with the elections on the basis of the said classification as notified in the notification by the Government published in the Gazette No. 276 dated 21-11-1979 issued by the Housing Municipal Administration and Urban Development Department, Government of Andhra Pradesh, through the Secretary to the said Department. The petitioner, therefore seeks the issuance of the writ of certiorari or appropriate writ or order declaring Clause (c) of Section 3 of the Amending Act 17 of 1979, amending Section 8 of the Hyderabad Municipal Corporation Act, 1955 as ultra vires and to restrain the respondents from taking any further steps in connection with the ensuing elections to the Municipal Corporation of Hyderabad on the basis of the impugned Clause (e) of Section 3 of the Amending Act.

2. The learned counsel for the petitioner contends that as the principle adopted in the case of reservation of seats for Scheduled Castes and Scheduled Tribes has not been followed in the case of reservation for women, the Amending Act is discriminatory and hence offends Article 14 of the [Constitution of India](#). He also contends that as no intelligible differentia is disclosed for such a reservation irrespective of women population and the object of the amendment to provide for greater representation to women is not achieved by the amendment, the Amending Act should be declared as ultra vires.

3. We find ourselves unable to accept any of these contentions. It is true that in providing the constituencies reserved for Scheduled Castes and Scheduled Tribes, the largest population of Scheduled Castes and Scheduled Tribes, as the case may be, was taken as the basis. But in providing the constituency reserved for women, the same principle is not followed. On the other hand, the largest population of men and women put together was taken as the basis. This is clear from Clause (c) of Section 8 (1) of the Amended Act which reads as follows:

'Determine the divisions in which the seats shall be reserved for women having regard to the principle that the seat shall be reserved in that single division, which in the opinion of the Government has the largest population, according to the last census, irrespective of women population in that division.'

From this it is clear that the reservation is not made on the basis of the largest population of women, but on the basis of the largest population of both women and men put together in the Constituency. The learned counsel for the petitioner comments that Sub-section (c) of Section 8(1) is hit by Article 14 inasmuch as it has not taken the population of women as the basis, though in the case of Scheduled Castes and Scheduled Tribes the population of the castes or the tribes was taken as the criterion for reserving the Constituencies for them. He also contends that the amendment is discriminatory and it offends Article 14, as no intelligible differentia is disclosed for such method as to reservation and the object for which the reservation, is provided is not achieved by the amendment; we find it difficult to accept these contentions.

4. In the case of Scheduled Castes and Scheduled Tribes, there are certain sociological problems and peculiarities. In every constituency the population of Scheduled Castes or Scheduled Tribes will not be found or available. In a few constituencies only Scheduled Castes or Scheduled Tribes will be found. Hence the legislature in its wisdom felt it desirable to provide a particular constituency reserved for Scheduled Castes or Scheduled Tribes on the basis of the existence of the largest population of Scheduled Castes or Scheduled Tribes, as the case may be in that particular constituency. But in the case of women, that is not the position. In every constituency the population of women will be found along with the population of men. In some constituencies the women population may be more than the male population and in some other, male population may be more than the female population. Hence the legislature felt it desirable to provide a constituency reserved for the women on the basis of the existence of the largest population.

5. Then the question is whether the criterion adopted for reserving the constituency for women as provided in Section 8 (1)(c) is improper, unreasonable or ultra vires of the Constitution. Several methods may be adopted or followed for reserving the constituency for women. One method may be on the basis of the largest population of women. Another method is that which is provided under Section 8 (1)(c). That being so, the method provided under Section 8 (1)(c), cannot be said to be irrational or unsound or unreasonable. At any rate, Section 8

(1)(c) does not offend Article 14, merely because the basis for reserving the constituencies for the Scheduled Castes or Scheduled Tribes is not followed for reserving constituencies for women under Section 8 (1)(c) as the peculiarities under which the Scheduled Castes and Scheduled Tribes are placed form the real difference or disclose the intelligible difference between the two groups. We find ourselves unable to say that the amendment under Section 8 (1)(c) will not achieve the object for which the reservation is intended.

6. The power to legislate includes within its ambit the power to classify. Therefore, the classification by itself is not obnoxious to constitutional mandate provided that the basis for the classification is intelligible or rational having the needed nexus with the object or purpose of the legislative measure to be accomplished. What the constitution prohibits is the class legislation, but not reasonable classification. As the method provided under Section 8 (1)(c) for reserving the constituencies for women cannot be said to be unreasonable classification, the contention of the petitioner that it is discriminatory and it offends Article 14 of the Constitution is unsustainable.

7. In *Ram Krishna Dalmia v. Justice Tendolkar* : [1959]1SCR279 their Lordships held:

'It is now well established that while Article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification two conditions must be fulfilled, namely, (1) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and (ii) that that differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification may be founded on different bases, namely, geographical, or according to objects or occupations or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration. It is also well established by the decisions of this court that Article 14 condemns discrimination not only by a substantive law but also by a law of procedure.'

Their Lordships enunciated the principles as follows:

'(a) that a law may be constitutional even though it relates to a single individual if on account of some special circumstances or reasons applicable to others, that single individual may be treated as a class by himself:

(b) that there is always a presumption in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been a clear transgression of the constitutional principles;

(c) that it must be presumed that the Legislature understands and correctly appreciates that need of its own people, that its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds;

(d) that the Legislature is free to recognise degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest;

(e) that in order to sustain the presumption of constitutionality the Court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation; and

(f) that while good faith and knowledge of the existing conditions on the part of a Legislature are to be presumed, if there is nothing on the face of the law or the surrounding circumstances brought to the notice of the court on which the classification may reasonably be regarded as based, the presumption of constitutionality cannot be carried to the extent of always holding that there must be some undisclosed and unknown reasons for subjecting certain individuals or corporations to hostile or discriminating legislation.'

8. We have already stated above that Section 8 (1)(c) does not constitute a class legislation and it discloses the intelligible differentia which distinguishes the two groups and the differentia has a rational relation to the object sought to be achieved by Section 8 (1)(c). We are, therefore, satisfied that Section 8 (1)(c) comes within the purview of the above principles laid down by their Lordships. Hence we find no merits in the contention raised by the learned counsel for the

petitioner. The writ petition is, therefore, dismissed.

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