

Pratap Narayan Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Oct-24-2000

Reported in : 2001(1)AWC99

Judge : Shyamal Kumar Sen, C.J. and ;G.P. Mathur, J.

Acts : U.P. Municipalities Act, 1916 - Sections 2 (16), 9A and 296; U.P. Municipalities (Reservation and Allotment of Seats and Offices) Rules, 1994 - Rule 4 (1); [Constitution of India](#) - Articles 226 and 243P

Appeal No. : C.M.W.P. No. 43403 of 2000

Appellant : Pratap Narayan

Respondent : State of U.P. and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Mrs. Poonam Srivastava, Adv.

Judgement :

ORDER

Shyamal Kumar Sen, C. J. and G. P. Mathur, J.

1. This writ petition, under Article 226 of the Constitution, has been filed praying that the notification issued by the State Government on 27.9.2000 providing for reservation of wards in Nagar Palika Parishad, Farrukhabad, be quashed.

2. It is averred in the writ petition that Nagar Palika Parishad, Farrukhabad, has been divided into 29 wards. In the election held in the year 1995, the wards were reserved on the basis of the population as ascertained in the census held in the year 1991. Accordingly, 17 wards were reserved for General Candidates, 8 wards were reserved for Backward Classes and 4 wards were reserved for Scheduled Caste candidates. In the notification issued by the State Government on 27.9.2000, the number of wards reserved for Scheduled Castes candidates have been reduced from 4 to 3.

3. Mrs. Poonam Srivastava, learned counsel for the petitioner has contended that after 1991, no fresh census has been held and, therefore, for the purpose of election scheduled to take place in November, 2000 the figure published in the 1991 census have to be accepted in view of Article 243P(b) of the Constitution and also Section 2 (16) of the U. P. Municipalities Act, 1916. According to the learned counsel, if the number of wards to be reserved for Scheduled Castes is calculated on the basis of the formula provided in the relevant rules by taking into account the aforesaid population, the same could not be reduced from 4 to 3.

4. The State Government in exercise of the powers conferred by Section 296 of the U. P. Municipalities Act read with Section 9A of the said Act has made the U. P. Municipalities (Reservation and Allotment of Seats and Offices) Rules, 1994, Rule 4 (1) provides the method for determination of seats to be reserved for Scheduled Castes and Scheduled Tribes. This Rule was amended on April 20, 1995 and after the amendment, it reads as follows :

'4. (1) The number of seats to be reserved in a municipality for the Scheduled Castes for the Scheduled Tribes. or the Backward Classes under subsection (1) of Section 9A of the Act shall be so determined that it shall bear, as nearly as may be, the same proportion to the total number of seats in a municipality as the population of the Scheduled Castes in the municipal area or the Scheduled Tribes in the municipal area or the backward classes in the municipal area bears to the total population of such area and if in determining such number of seats, there comes a remainder then If it is half or less than half of the divisor, it shall be ignored and if it is more than half of the divisor, the quotient shall be Increased by

one and the number so arrived at shall be the number of seats to be reserved for the Scheduled Castes or the Scheduled Tribes or the Backward Classes as the case may be.

Provided that number of seats to be reserved in a municipality for the Backward Classes under sub-section (1) of Section 9A of the Act. shall not be more than twenty seven per cent of the total number of seats in a municipality.'

5. According to the aforesaid Rule, the number of wards to be reserved for Scheduled Castes has to be calculated on the basis of following formula :

Number of wards x Scheduled Caste population of Nagar Palika Parishad

6. It is averred in the writ petition that according to the Sankhya Adhikari, the population of Scheduled Castes in the Nagar Palika Parishad is 26, 283 and according to the Nagar Palika Parishad, it is 24,511. If the number of wards to be reserved for Scheduled Castes is calculated on the basis of the above figures. It will exceed 3.90 in either case. Since, the fraction is more than 50, it has to be taken as one. Therefore, the number of wards to be reserved for Scheduled Castes come to 4. Sri Ashok Mehta, learned chief standing counsel, has fairly admitted that the number of wards to be reserved for Scheduled Castes in the present case in view of the provisions of U. P. Municipalities (Reservation of Allotment of Seats and Offices) Rules. 1944, as amended from time to time will come to 4 and the impugned notification whereby only 3 wards have been reserved is not correct.

7. The impugned notification dated 27.9.2000 by which only 3 wards have been reserved for Scheduled Caste candidates in Nagar Palika Parishad, Farrukhabad is, therefore, not correct and their number should be 4.

8. The writ petition is, accordingly, disposed of with the direction to the concerned authority of the State Government to reconsider the objection filed by the petitioner and modify the notification dated 27.9.2000 by taking a fresh decision for the reservation of wards in favour of Scheduled Caste candidates in the light of the discussions made above and in accordance with law.

