

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7054 OF 2001@@
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Ashok Kumar ...Appellant

Vs.

Sudesh Kumar Aggarwal & Ors. ...Respondents

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This appeal is against the judgment dated 27th February, 2001. By this judgment a writ petition challenging the election to the post of President of the Municipal Council, Kapurthala has been allowed.

The elections were held on 10.6.1998. In the election the appellant was declared as the successful candidate. Instead of filing an election petition as contemplated by Section 76 of the Punjab State Election Commission Act, 1994 (hereinafter referred to as 'the Act') read with Section 89(1)(d)(iii), respondent no.1 chose to file a writ petition. In our view, this appeal can be disposed of on a very short point.

Under Section 74 of the Act no election can be called in question except by way of an election petition. Apart from this, Article 243ZG of the Constitution of India also provides that a challenge to an election can only be in the manner provided under any law made by the Legislature of the State. The law laid by the Legislature is the Act.

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The writ petition was thus not maintainable and should not have been entertained by the High Court. The reasoning given by the High Court for entertaining such a writ petition is, in our view, unsustainable.

We, therefore, set aside the impugned order and dismiss the writ petition. The appeal is accordingly allowed. There will be no order as to costs.

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.....J.
[S.N. VARIAVA]

.....J.
[ARUN KUMAR]

New Delhi,
October 23, 2002.@@
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