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C.A.No. 2768 OF 1998

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2768 OF 1998@@
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Charanjit Singh & Ors. .. Appellants

Vs.

Harinder Sharma & Ors. .. Respondents

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The appellants before us were appointed to certain posts of Clerks, Firemen, Drivers, Peons, Instructors etc. in the Municipal Council of Mansa, Punjab pursuant to three selections made in the year 1993, 1994 and 1995. On certain complaint being made an inquiry was instituted and one Shri Mandeep Singh, Joint Director, Legal Bodies, Municipal Administration made a report that certain relations of the President and other Municipal Councillors were selected by disregarding the others. In spite of the report, no action was taken by the Government to rescind the orders of appointment. At that stage, two Municipal Councillors and wife of one of the Municipal Councillor filed a Writ petition before the High Court challenging the appointments of the appellants.

The principal ground raised before the High Court is that the most of the selected candidates are related

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to the members of the Selection Committee and certain detailed averments were made in that regard in the Writ petition as to the nature of the relationship or how distant and how closely they were related to the members of the Selection Committee and other details. They also set out certain other defects in the matter of appointments, but the High Court relied upon only on the aspect of relationship of the parties but without examining the replies filed thereto by the other side nor finding out the nature of relationship between the parties and proceeded to hold that the allegation which has been admitted is sufficient to show that there was bias in their favour and hence the selection stood vitiated and quashed the same. Hence this appeal.

An examination of the matter in detail would indicate that though some of the selected candidates were related to the members of the Selection Committee, others were not related at all. However, certain Rules have been framed under the Punjab Municipal General Rules, 1979 and Rule 7 provides that " No member of the committee shall be present or vote at or take any other part in any proceeding of a committee or sub-committee

relating to a matter in which such member, either or his

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parents or descendants of such members, or descendant of any parent of such members, or descendant or parent of the husband or wife of such member or descendant of such parent last referred to has a direct or indirect interest". Under Rule 8, such relations could be appointed with the previous approval of the Regional Deputy Director, Local Government.

The rationale behind this Rule is that in a small place like Mansa that most persons are related to one or the other. What needs to be considered is whether they are so closely related as mentioned in Rule 7 of the Punjab Municipal General Rules, 1979 or not and whether they comply with Rule 8 or not. That aspect was lost sight of by the High Court or rather brushed aside.

The Government itself on the receipt of the report did not find it expedient to set aside the orders of appointments made pursuant to the selections. None of the candidates who had participated in the process of selection are not selected have filed the Writ petition. The petition is filed by the respondents in the nature of Public Interest Litigation and two of them being Municipal Councillors are parties to the decision of

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approving the selections made. The public interest in such matters would be adequately protected if Rules are duly complied with. We do not think there was any reason for the High Court to have interfered with the selections made. The High Court on a perfunctory consideration has upset the selections made without examining the matter in depth. We, therefore, set aside the order made by the High Court and allow this appeal. The Writ petition filed by respondent Nos. 1 to 3 stands dismissed. No costs.

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(S. RAJENDRA BABU)

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(DORAISWAMY RAJU)

New Delhi,
September 26, 2001.

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ITEM NO.102(PH) COURT NO. 7 SECTION-IV

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.2768/1998

Charanjit Singh & Ors. .. Appellants

Vs.

Harinder Sharma & Ors. .. Respondents
(With office report)

DATE : 26.9.2001 : This/These matter (s) was/were
called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For Appellant (s) : Mr.P.P. Rao, Sr. Adv.
Mr. P.N. Puri, Adv.

For Respondent (s) : Mr. Neeraj Kumar Jain, Adv.
Mr. Aditya Kumar Chaudhary, Adv.
Mr. Bharat Singh, Adv.
Mr. Ugra Shankar Prasad, Adv.

UPON hearing counsel the Court made the following
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Appeal is allowed and the writ petition filed by
respondent Nos. 1 to 3 stands dismissed in terms of the
signed order. No costs.

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(Meenu Sethi)
Court Master

(Om Prakash)
Court Master

Signed order is placed on the file