

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SSPECIAL LEAVE PETITION (CIVIL) Diary No(s). 1062/2025

[Arising out of impugned judgment and order dated 07-11-2024 in LPA No. 361/2024 passed by the High Court of Himachal Pradesh at Shimla]

BASANT LAL

Petitioner(s)

VERSUS

STATE OF H.P. & ORS.

Respondent(s)

(IA No. 91903/2025 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS AND IA No. 91902/2025 - EXEMPTION FROM FILING O.T.)

Date : 17-04-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) :Mr. Sunil Kumar Jha, Adv.
Mr. Amrendra Kumar Choubey, Adv.
Ms. Sindhu Prabha Jha, Adv.
Mr. Uddeshy Kumar Jha, Adv.
Mr. Amrit Anunay, Adv.
Mr. Victor Dissha, Adv.
Ms. Shloka Vaidalingam, Adv.
Mr. Shivan Vaidalingam, Adv.
Ms. Seita Vaidyalingam, AOR

For Respondent(s) :

UPON hearing the counsel the Court made the following

O R D E R

1. Delay condoned.
2. The petitioner is aggrieved by a judgment dated 07.11.2024 passed by the Division Bench of the Himachal Pradesh High Court, affirming the view taken by the learned Single Judge with respect to disqualification of the petitioner for holding the post of Pradhan of Gram Panchayat, Pangna, Tehsil Karsog, District Mandi.

3. The facts are broadly admitted. The petitioner was declared elected on 17.01.2021. Respondent No.3, who stood in third position in the same elections, challenged the petitioner's election through an Election Petition, filed before the Sub-Divisional Magistrate-cum-Authorised Officer. The plea taken by Respondent No. 3 was that the petitioner deliberately did not disclose pendency of the criminal case registered against him vide FIR No. 114/2017 under Sections 147, 447, 427 read with Section 149 IPC and also under Sections 32 and 33 of the Indian Forest Act, 1927. Notably, the above-stated case was pending before the Judicial Magistrate, First Class, Karsog.

4. It is not in dispute that in the declaration furnished by the petitioner in terms of the Himachal Pradesh Panchayats and Municipalities Elections (Disclosure of specified information by the candidates) Regulations, 2004 (hereinafter, '2004 Regulations') he specifically averred that there was no criminal case registered or pending against him. The Election Tribunal, having instead found that a criminal case was pending trial against the petitioner where the punishment upto 2 years could be awarded, declared the petitioner's election as null and void.

5. The aggrieved petitioner firstly filed an appeal before the Deputy Commissioner-cum-Appellant Authority, which was dismissed on 01.05.2023. Subsequently, he approached the High Court in CWP No. 2854/2023. A learned Single Judge of the High Court dismissed the Writ Petition on 16.10.2024, *inter alia*, holding that even though non-disclosure or false disclosure was not a specific ground of disqualification under Section 122 of the Himachal Pradesh

Panchayati Raj Act, 1994 (hereinafter, '1994 Act') but the Regulations formulated in exercise of powers under Section 122 of that Act mandatorily require disclosure of such information. It was further held that the 2004 Regulations qualify a subordinate legislation and were, thus, binding, similar to the principal Act and the Rules framed thereunder. The learned Single Judge further held that the concealment of material facts by the petitioner amounted to 'corrupt practice' within the meaning of Section 175(1) (b) of the 1994 Act, which was another valid ground to declare his election null and void.

6. Still aggrieved, the petitioner filed an intra-court appeal which has also been dismissed by a Division Bench of the High Court *vide* the impugned judgment dated 07.11.2024.

7. We have heard learned counsel for the petitioner, who, at the outset, submits that in the above-mentioned criminal case, the petitioner has now been acquitted. He also points out that *vide* an order dated 02.02.2025, the petitioner has been disqualified from contesting elections for a period of 6 years, due to the previous non-disclosure regarding the aforementioned criminal case.

8. On merits, counsel for the petitioner refers to paragraph 14 of the impugned judgment where the High Court has acknowledged that the 1994 Act or the Rules framed thereunder do not specifically provide for disclosure of a pending criminal case by a candidate contesting for the post of Pradhan, Gram Panchayat.

9. Having perused the submissions supplemented with the record, we fail to find any merit as far as the petitioner's challenge to the impugned order(s) and judgment(s) of the High Court are

concerned. We say so for the reason that the Regulations framed by the State Election Commission have rightly been held by the High Court to be a piece of subordinate legislation and, thus, the candidates contesting the Panchayat election were obligated to comply with the provisions of the same.

10. In any case, the misconduct attributed to the petitioner does not require reference to any provision of the Act, Rules or Regulations. It is a case where he deliberately filed a false affidavit/undertaking concealing the factum of pendency of criminal case against him. The concealment of that material fact *per se* was a valid ground to annul his election.

11. Turning lastly to the order dated 02.02.2025, by way of which the petitioner has been precluded from contesting any elections for the next 6 years, we do not want to express any opinion on this order's merits as it is a subsequent event which was not subject matter of the challenge before the High Court. That being said, in light of the fact that the petitioner is stated to have been acquitted in the subject-criminal case, it seems to us that barring him for 6 years from contesting elections is *prima facie* harsh and disproportionate punishment to the nature of allegations attributed to him. We hasten to clarify that these are only *prima facie* observations at this stage. The petitioner, if so advised, may challenge that order before the High Court in the appropriate proceedings. Since we have not expressed any final opinion on merits of that order, we wholly leave it to the High Court's discretion to take an appropriate view of the matter.

12. Consequently, with a view to avoid irreversible hardship to

the petitioner, operation of the order dated 02.02.2025 is hereby stayed for the purpose of enabling the petitioner to contest the election of Pradhan of the Gram Panchayat, if it is held in the near future. This stay shall operate for a period of 8 weeks from today to enable the petitioner to approach the High Court meanwhile by way of appropriate proceedings.

13. With these directions, the Special Leave Petition stands disposed of.

14. Pending application(s), if any, shall also stand disposed of.

(NITIN TALREJA)
ASTT. REGISTRAR-cum-PS

(PREETHI T.C.)
ASSISTANT REGISTRAR