

Ram Kishan
and another
v.
Mathuri Devi
and others

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I am afraid it is not possible for me to convert myself into a Court of first appeal in the present proceedings when the only question agitated by the appellants is one of limitation for the appeal in the lower appellate Court. I, however, do feel that the learned Senior Subordinate Judge must dispose of the appeal with due despatch and within five weeks from today. Parties are directed to appear in the Court of the Senior Subordinate Judge on 11th October, 1965 and the appeal must be heard and disposed of on 18th October, 1965. The records may be remitted to the Court below (Court of the Senior Subordinate Judge, Ambala) without undue delay. In the circumstances of this case there would be no order for costs in this appeal, but otherwise the costs would be costs in the cause.

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CIVIL MISCELLANEOUS

Before S. B. Kapoor and Inder Dev Dua, JJ.

DARSHAN SINGH,—Petitioner.

versus.

THE STATE OF PUNJAB AND OTHERS,—Respondents.

Civil Writ No. 2381 of 1963.

1965
October 12th

Representation of the People Act (XLIII of 1951)—S. 23—Registration of Electors Rules (1960)—Rules 26(3) and (4)—“Immediately” and “as soon as may be”—Significance and meaning of—Right of franchise—Importance of—Elective process—How to be made effective—Duties to administrative officers stressed.

Held, that the use of the words “immediately” and “as soon as may be” in sub-rules (3) and (4) of Rule 26 of the Registration of Electors Rules, 1960, is very significant. The expression “as soon as may be” in Rule 26(4) imposes a solemn duty on the Officer concerned to consider an application submitted in Form VI of the Rules within a reasonable time with an understanding to do it within the shortest possible time. The word “immediately” in Rule 26(3) casts its reflection on and lends colour to the expression “as soon as may be”. The word “immediately” has the same meaning as the word “forthwith” has, implying reasonably speedy and prompt action and omission of all delay. What is required to be done “immediately” must be done “as quickly as is reasonably possible”. It is not always possible to quantify with precision, the period of time with reference to days, hours or months, but it is not at all difficult to say on a consideration of

all the relevant circumstances of a case whether the thing done was or was not done "as soon as may be", in other words, within time which would be reasonably correct or requisite.

Held, that the right of franchise has a basic importance in our governmental set-up. True, that this right is neither fundamental, nor inherent, and is only a political and a statutory right, but in our elective representative democratic set-up, this right enjoys a very respectable status and is indeed highly cherished by the citizens. Considered in this background, our elective process, whether designed for the Parliament, State Legislature, or the Panchayats, can be truly effective only when the electoral rolls are kept up-to-date for the purpose of actual polling. This anxiety on the part of the Parliament has been distinctly exhibited in the Act and the Electors Rules. The effective working of these provisions of law must be the solemn duty and responsibility, as also the patriotic privilege, of our administrative officers. Loyalty to the Constitution and respect for the citizens' cherished rights coupled with obedience to the Rule of law, demand from these officers a responsive attitude in dealing with elective processes.

Case referred by the Hon'ble Mr. Justice Inder Dev Dua by order dated May 25, 1965 to a larger Bench for decision owing to the important question of law involved in the case. The case was finally decided by a Division Bench consisting of the Hon'ble Mr. Justice S. B. Kapoor and the Hon'ble Mr. Justice Inder Dev Dua, on October 12, 1965.

Petition under Article 226 of the Constitution of India praying that a writ of Mandamus or any other appropriate writ, order or direction be issued quashing the order of the respondents regarding elections to the Gram Sabha Arno held in November, 1960.

B. S. BINDRA, ADVOCATE, for the Petitioner.

J. N. KAUSHAL, ADVOCATE-GENERAL, H. S. WASU AND LAKHBIR SINGH WASU, ADVOCATES, for the respondent.

ORDER

DUA, J.—This writ petition has been placed before us in pursuance of my order of reference, dated 25th May, 1965. The petitioner Darshan Singh, claiming to be a resident of village Arno, Sub-Tehsil Samana, district Patiala, which has a population of over one thousand inhabitants, asserts that at the time of the elections to the Gram Sabha, Arno, held in November, 1960, he was entered as a voter in the electoral roll of the Punjab State Legislative Assembly pertaining to the Sabha area and he actually contested the election for the post of Sarpanch

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against Shri Ishar Singh Majhail, respondent No. 4 in the present proceedings. In that contest, the petitioner lost to respondent No. 4 by a margin of about 104 votes. At the time of the Panchayat elections in November, 1960 as also at the time of the general elections in 1962, the total number of voters in the Gram Sabha area in question was about 600, out of whom about 500 votes were actually polled during these two elections. The petitioner was actually entered as a voter in the electoral roll of the Gram Sabha at the time of the general elections held in 1962 and he cast his vote in that election. As soon as the Punjab Government decided to hold the Panchayat elections from 26th December, 1963, the petitioner started canvassing support for his candidature for the office of Sarpanch. On 5th December, 1963, when he went to the District Election Office to secure a copy of the electoral roll of the State Legislative Assembly pertaining to the area of Gram Sabha, Arno, he was surprised to find that there were only 182 voters entered in the electoral roll and they were from Serial No. 639 to 820. Not only was the petitioner's name missing in the said electoral roll, but all the votes of Dera Rajputan numbering about 125 and about 140 of Dera Bazigar also missing. These voters had also cast their votes during the general elections held in 1962. The Electoral Registration Officer was approached, but no satisfactory explanation of the deletion of the names of about 400 voters could be given by him. On 10th December, 1963, the petitioner along with 304 other persons, who were also eligible for being enrolled as voters, submitted their applications under section 23 of the Representation of the People Act (43 of 1950) (hereinafter called the Act) in Form VI of the Registration of Electors Rules, 1960 (hereinafter called the Electors Rules). The applications were accompanied by the requisite fee in accordance with Rule 26 of the Electors Rules and were submitted to the Electoral Registration Officer after the requisite endorsement by the General Assistant to the Deputy Commissioner, Patiala, respondent No. 3 in the present proceedings. The petitioner waited for seven days, the period prescribed by Rule 26(3) of the Electors Rules for filing objections and went to the Election Office on 19th December, 1963 to find out as to what had happened. The petitioner came to know on this visit that the provisions of Rule 26(3) had not been complied with. Even copies of the applications had not been posted

in a conspicuous place, nor was any notice issued inviting objections as required by the rules. On the other hand, the petitioner was told that he and the other applicants could not be registered as electors at that stage. On demanding a copy of the order rejecting the petitioner's application, he was told that no order had been passed disposing it of. On 11th December, 1963, the Deputy Commissioner, Patiala, published the election programme under Rule 3 of the Punjab Gram Panchayat Election Rules, 1960 (hereinafter described as Panchayat Election Rules) by means of which, the Gram Sabha was called upon to elect the Panchayat on 1st January, 1964. The nomination-papers, according to this programme, were required to be filed on 31st December, 1963. It is in these circumstances that the petitioner, who claims to be 41 years of age and entitled to be registered as an elector, approached this Court for suitable relief under Article 226 of the Constitution, requiring the Registration Officer to comply with the provisions of Rule 26 of the Electors Rules and to register as electors the petitioner and the other persons, who had applied for enrolment. It has also been pleaded that the Deputy Commissioner, Patiala, respondent No. 2, cannot hold the elections till the applications of the petitioner and other 304 persons are decided and they are enrolled as electors.

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In the written statement filed by Shri Malkiat Singh Kailay, P.C.S., General Assistant (1) to the Deputy Commissioner and Electoral Registration Officer, Samana Assembly Constituency, it is pleaded that the total number of votes in the Gram Sabha area at the time of Panchayat elections in November, 1960 was 528, and at the time of general elections in 1962, the total number of votes of village Arno was 182. It is denied that the petitioner was registered as a voter from village Arno. On the other hand, it is asserted that he was registered as a voter from village Gurditpura in the same Patwar circle, but constituting a separate Gram Sabha. In regard to the petitioner's visit to the District Election Officer on 5th December, 1963, it is pleaded that there is nothing on the record to substantiate it. It has, however, been admitted that the voters' list of village Arno contained only 182 voters from Serial No. 639 to 820. The voters' lists, according to this reply, were revised in 1961 under section 21(2) of the Act and only those voters were entitled to poll their votes in

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the general elections of 1962, whose names were actually entered in the revised electoral roll. The petitioner's name was not included in the revised list of voters from village Arno as finally published on 29th September, 1961. The petitioner had never cared to seek inclusion of his name in the voters' list of this village. In reply to the principal allegation of the petitioner having applied for inclusion of his name in the electoral roll, it is denied that the petitioner had put in his application on 10th December, 1963. It has, however, been admitted that the petitioner did submit his application on 13th December, 1963. This application was sent by the Electoral Registration Officer, the answering respondent, to the office and "the petitioner", to quote from the reply, "was explicitly informed that his application for registration as voter would be taken up after the Panchayat elections were over, as there were thousands of other similar applications received earlier pending in the office and those had to be dealt with before his application could be taken up." The petitioner's application, according to the reply, has since been rejected because his name was already included in the electoral roll of village Gurditpura at serial No. 147 of the electoral roll for Patwar Circle Bahr Jachh. It is further averred that the petitioner had made a wrong declaration to the effect that his name was not included in the electoral roll for any other constituency, even though it had been made clear on the form of application itself that any false statement or declaration was punishable under section 31 of the Act. The petitioner's visit to the election office on 19th December, 1963 has been controverted and it has been pleaded that the provision of Rule 26(3) of Electors Rules were observed as soon as the petitioner's application was received on 13th December, 1963 and a copy of the same was duly posted in a conspicuous place in the District Election Office together with a notice inviting objections to the application within a period of seven days. Objections to the inclusion of the petitioner's name were actually received in the office within the prescribed period and considered when the application was taken up for disposal. The petitioner's name, it is further pleaded, had not been deleted under rule 19(1)(b) (ii) of the Electors Rules and the electoral rolls were revised and published in 1961 and again in 1962 and 1963. The petitioner's name did not appear in the revised electoral rolls of village Arno, presumably, as the written

statement proceeds, because he was not a resident of that village and, therefore, not entitled to be registered in the voters' list pertaining to it.

In the replication placed on the record with the permission of D. K. Mahajan, J., it is asserted that the petitioner and other more than 300 persons are still residents of village Arno and their votes have been cancelled with the connivance of respondent No. 4 without notice to anyone of the said voters. This, according to the replication, has been done with a *mala fide* object. In this replication, he has reproduced the names of all the other persons, who, according to the petitioner, had also applied for inclusion of their names in the electoral rolls. This has apparently been done because in the written statement, ignorance was expressed about the applications relating to these persons on the ground of their names having not been disclosed.

The short point arising out of the pleadings and pressed before us on behalf of the petitioner is that the petitioner's application for inclusion of his name in the electoral roll was not considered and disposed of in accordance with the Act and the Electors Rules, and the election was illegally rushed through before the petitioner's application for inclusion of his name could be disposed of. The petitioner's grievance has merit and the petition should, in my opinion, succeed.

Section 22 of the Act, which provides for correction of entries in electoral rolls, lays down that if the Electoral Registration Officer for a constituency, on application made to him or on his own motion, is satisfied after such enquiry, as he thinks fit, that an entry in the electoral roll of the constituency (a) is erroneous or defective in any particular, (b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or (c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in the roll, the Electoral Registration Officer shall, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry. There is a proviso added to this

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section, according to which before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the Electoral Registration Officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him. Section 23 providing for inclusion of names in electoral rolls lays down that any person, whose name is not included in the electoral roll of a constituency, may apply in the manner hereinafter provided for the inclusion of his name in that roll. Where such an application is made at any time after the issue of a notification calling upon that constituency or the Parliamentary constituency within which that constituency is comprised, to elect member or members and before the completion of that election, it has to be made to the Chief Electoral Officer and in any other case, to the Electoral Registration Officer of that constituency. The Chief Electoral Officer, or as the case may be, the Electoral Registration Officer, shall, if satisfied, that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein. According to the proviso, if the applicant is registered in the electoral roll of any other constituency, the Chief Electoral Officer, or as the case may be, the Electoral Registration Officer, shall inform the Electoral Registration Officer of that constituency and that officer shall, on receipt of the information, strike off the applicant's name from that electoral roll. Section 24 provides for appeals from orders passed under sections 22 and 23. At this stage, it may be pointed out that by virtue of section 5(3) of the Punjab Gram Panchayat Act, 1952, (Punjab Act IV of 1953), every person who, for the time being, is entered as a voter on the electoral roll of the State Legislative Assembly for the time being in force, and pertaining to the Sabha area, is to be a member of the Sabha of that Sabha area. Rule 26 of the Electors Rules dealing with the subject of correction of entries and inclusion of names in electoral rolls, lays down the procedure for making applications under section 22 and section 23(1) of the Act. Sub-rule (3) lays down that the Chief Electoral Officer, or as the case may be, the Registration Officer, shall *immediately* on receipt of such application direct that one copy thereof be posted in some

conspicuous place in his office together with the notice inviting objections to such application within a period of 7 days from the date of such posting. According to sub-rule (4), the Chief Electoral Officer, or as case may be, the Registration Officer, shall, *as soon as may be* after the expiry of the period of seven days specified in sub-rule (3), consider the objection, if any, received by him and shall, if satisfied, that the applicant is entitled to be registered in the roll, direct his name to be included therein. I have underlined the word and the expression which appear to me to be vital. Rule 27, it may incidentally be observed, deals with appeals under section 24 of the Act. Under section 101 of the Gram Panchayat Act, the Government of the State of Punjab has been empowered to make rules consistent with the Act for carrying out the purposes thereof. Clause (c) of sub-section (2) expressly empowers Government to make rules "regulating the procedure of election, etc., of the office-holders of the Gram Panchayat etc." By Rule 3 of the Panchayat Election Rules, 1960, the Deputy Commissioner is empowered to frame an election programme specifying the date, time and place for (i) the filing of nomination-papers; (ii) the scrutiny of nomination-papers, (iii) the withdrawal of nomination-papers and (i) the taking of polls, if necessary. The election programme is required to be published not less than seven days before the date fixed for filing the nomination-papers. Under Rule 9, a candidate is entitled to withdraw his nomination by a notice in writing which has to be subscribed by him and delivered to the Returning Officer before the expiry of the time allowed for the withdrawal of nomination-papers, and no person, who has given such notice, can cancel the withdrawal or be re-nominated as a candidate for the same election. Rule 10 enjoins the Returning Officer on the expiry of the time fixed for withdrawal of nomination-papers to allocate by lot to each validly nominated candidate an approved symbol. Immediately thereafter, list of nominations with the allotted symbols is to be posted outside the Returning Officer's camp office. Under Rule 13, if the number of contesting candidates is greater than the number of members to be elected, a poll has to be taken on the date specified in Rule 3 for the election. If a validly nominated candidate dies and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer has under Rule 14 to countermand the poll in

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respect of the office of which the deceased was a candidate and report the fact to the Deputy Commissioner : in such a contingency, all proceedings have to commence afresh as if for a new election. No fresh nomination would, however, be necessary to validly nominated candidates. I have referred to these various rules because from the material placed before us, the impression created is that these rules were not properly adverted to while framing the programme.

It is the petitioner's case as laid in paragraph 14 of the writ petition and admitted by Shri Sunder Singh, respondent No. 2 and also by Shri Ishar Singh Majhail, respondent No. 4, in their written statements, that according to the election programme published by the Deputy Commissioner on 11th December, 1963, the nomination-papers were to be filed on 31st December, 1963 and election was to be held on 1st January, 1964. There is no mention of any date fixed for withdrawal of nominations. The petitioner claims to have applied on 10th December, 1963, under section 23 of the Act, for inclusion of his name in the electoral roll, but according to the written statement of respondent No. 3, the petitioner had applied on 13th December, 1963 and the application was sent by the said respondent (Electoral Registration Officer) to the office. As noted earlier, the petitioner's application according to the direction of respondent No. 3, was not to be taken up till after the Panchayat elections were over. It may be recalled that the petitioner's application was rejected on account of his name having already been included in the roll for village Gurditpura, though it is pleaded by this respondent that Rule 26(3) of the Electors Rules was complied with as soon as the petitioner's application was received on 13th December, 1963 and on receipt of objections, the application was decided. It is significant that no dates of the various steps in this connection have been disclosed, nor is it stated if the petitioner was given a reasonable opportunity as required by the proviso to section 22 of the Act. The written statement is also silent as to whether the petitioner was informed of the final decision, and if so, when. This information, in my opinion, has great importance in view of section 24 of the Act, which gives to the petitioner a right of appeal against any such adverse decision.

The above narration of facts and the provisions of law noticed need no detailed comments. That the petitioner's

valuable right to have his name entered in the electoral roll so as to enable him to take suitable measures to contest the election in accordance with law has been violated illegally, is quite manifest, and is indeed established on the pleadings of the respondents themselves. It was incumbent on the Registration Officer on receipt of the application under Electors Rule 26 to immediately direct that one copy thereof be posted in a conspicuous place in his office and also to invite objections within seven days. The respondents have not thought fit to tell this Court as to on what date the above steps were taken, what objections—if any—were received and when, and who had objected. Information has also been withheld from this Court as to when the petitioner's application was actually disposed of, and indeed no copy of the order disposing of the application has been produced for our information. It has not even been disclosed whether the application was disposed of before or after the elections and if the petitioner was given any opportunity of hearing. The petitioner was, it may be recalled, informed by respondent No. 3, that his application would be heard after the elections were over. It has been stated at the bar by the petitioner's learned counsel that according to his recent information, his application had in fact been rejected on 31st December, 1963, and this has not been controverted by the respondents. It can thus fairly be assumed that Rule 26 has not been complied with by the respondents.

It has been very seriously contended by the learned Advocate-General that there were quite a large number of similar applications and, therefore, the petitioner's application could only be dealt with in due course. I am not at all convinced that there were at the relevant time thousands of applications relating to the constituency in question, as has been pleaded. The respondents have not cared or chosen to be frank with this Court even on this point and have produced no reliable and convincing material before us. Mere bald assertion, indefinite as it is, does not inspire this Court's confidence. This argument, in my opinion, also ignores the significance of the words "immediately" and "as soon as may be" used in sub-rules (3) and (4), respectively of the statutory rule, and proceeds on the misconceived assumption that the application could, under this rule, have been dealt with leisurely

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in due course, which may well mean months. The expression "as soon as may be" occurring in Electors Rule 26(4), in my opinion, imposed a solemn duty on the officer concerned to consider the petitioner's application within a reasonable time with an understanding to do it within the shortest possible time. The word "immediately" seems to me also to cast its reflection on and lend colour to the expression "as soon as may be". The word "immediately" in the present context must, in my opinion, have the same meaning as the word "forthwith" has in English language implying reasonably speedy and prompt action and omission of all delay. In other words, what is required to be done "immediately" must be done "as quickly as is reasonably possible". I am quite alive to the argument that this would depend on the facts of each case and no arbitrary time-limit can be set down, and indeed it may not always be possible to quantify with precision the period of time with reference to days, hours or months. But even in face of this general difficulty in discovering a suitable yard-stick or in affirmatively formulating precise rule for computing the period of time, which may be described as reasonable, it is, in my view, not at all difficult to say on a consideration of all the relevant circumstances of a case whether the thing done was or was not done "as soon as may be"; in other words, within time which would be reasonably convenient or requisite. In the case before us, when the election was to be held on 1st January, 1964, and the nomination-papers were to be filed on 31st December, 1963, the application, even if presented on 13th December, 1963, should, according to law, have been disposed of well in advance of 31st December, 1963 so as to enable the petitioner, if successful, to file his nomination-papers, or at least to enable him to exercise his right of vote on 1st January, 1964 in the constituency in which he was seeking to be a voter. The great importance which our law attaches to this valuable right is crystal-clear from the provisions noticed above. So is the anxiety felt by the Parliament in providing for speedy consideration of claims to enter the claimants' name in the electoral rolls, as is obvious from the use of the expressions like "immediately" and "as soon as may be" and from the fixation of a period of only seven days for objections. To ignore this legislative intent is, in my view, to betray an attitude of indifference to the real foundation of our representative democratic set-up; and

the sooner the importance of the right of franchise is realised by all concerned, the better for our democratic existence.

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It has been emphasised by the respondents' counsel that the petitioner's name was entered on the electoral roll for village Gurditpura and, therefore, he was not entitled to be entered in the roll of village Arno, until and unless he had not his name deleted from Gurditpura roll. This contention is misconceived, as would be clear from the plain language of section 23 of the Act. The proviso to this section removes all doubt—if there was any. Rejection of the petitioner's application on this ground is thus also illegal and, therefore, not possible to uphold.

Shri Lakhbir Singh Wasu has very eloquently argued on behalf of respondent No. 4 that the petitioner has not been fair and frank with this Court and has suppressed some material facts, with the result that he should be held disentitled to approach this Court, or at least to claim relief from this Court under Article 226 of the Constitution. I am unable to persuade myself to agree. The petitioner does not seem to have deliberately concealed any material fact which, if disclosed, would have entailed dismissal of the writ petition *in limine*. I am unable to find anything wrong with the petitioner's conduct which would impell or justify this Court in declining relief, if otherwise on the merits, the petitioner has made out a case for interference.

I may before closing advert to one aspect of great vitality, the importance of which, consciously or unconsciously, is often apt to be lost sight of or minimised by the administrators. The right of franchise has a basic importance in our governmental set-up. True, that this right is neither fundamental, nor inherent, and is only a political and a statutory right, but in our elective representative democratic set-up, this right enjoys a very respectable status and is indeed highly cherished by the citizens. Considered in this background, our elective process, whether designed for the Parliament, State Legislature, or the Panchayats, can be truly effective only when the electoral rolls are kept up-to-date for the purpose of actual polling. This anxiety on the part of the Parliament has been distinctly exhibited in the Act and the Electors

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Rules. The effective working of these provisions of law must be the solemn duty and responsibility, as also the patriotic privilege, of our administrative officers. Loyalty to the Constitution and respect for the citizens' cherished rights coupled with obedience to the Rule of law, demand from these officers a responsive attitude in dealing with elective processes. In matters dealing with elections to Panchayats, the burden of the administrator as will be shown hereafter is particularly heavy in this respect. On the question of the importance of the right of franchise, our attention has been drawn at the bar to *Lachman Singh and another v. The State of Punjab and others* (1) affirmed on appeal in *Piara Singh v. Lachman Singh* (2), *Chief Commissioner of Ajmer v. Radhey Sham Dani* (3), and *Shri Dev Parkash v. Babu Ram* (4). On the view I have expressed, which is in consonance with these decisions, it is unnecessary to discuss them at length.

In pursuance of the directive principle embodied in Article 40 of the Constitution, we are endeavouring to educate and enable the villages to function as units of self-government through Panchayats. The success of this endeavour, experimental as it is, demands hard labour by conscientious and efficient administrators to impartially enforce the relevant statutory provisions, taking keen and honest care to ensure the exercise of the right of franchise in accordance with law. Our Constitution is founded on justice, equality and fraternity and these considerations are expected to dominate the administrative mind in our set-up, more particularly when it is concerned with the election of citizens' representatives. Justice, fair-play and adherence to the Rule of law are, accordingly, to be the guiding considerations for the administrator in this Republic. Our democratic set-up is at the present moment passing through a delicate and critical period, and is indeed faced with a serious aggressive ideological challenge from bellicose, expansionist, undemocratic absolute regimes of dictatorial pattern. Democracy, which connotes and represents a way of life, has to be ensured by consistent practice of its principles for a healthy

(1) A.I.R. 1959 Punj. 522—I.L.R. 1959 Punj. 2168.

(2) I.L.R. (1961)1 Punj. 212—1960 P.L.R. 901.

(3) A.I.R. 1957 S.C. 304.

(4) I.L.R. (1961)2 Punj. 860—1961 P.L.R. 485.

growth and development, if we have to successfully meet this challenge. To this end, it is of the fundamental importance that those entrusted with the administration of elective processes in our country should discharge their functions with a proper sense of responsibility, bearing in mind that every material legal infirmity in the elective process would not only correspondingly thwart and obstruct, at this crucial stage, the nation's march towards the desired goal of properly elected democracy, but may seriously tend to jeopardise and even endanger our very existence as a democratic State under the Rule of law. Incidentally, it may be pointed out that when framing election programmes, the provision for taking steps for withdrawal of nomination-papers contained in Rule 3(1) (iii) of the Panchayat Election Rules also deserves to be kept in view, which was apparently ignored in the present case. Indeed, the programme must be framed fully in accordance with the entire statutory scheme.

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As a result of the foregoing discussion, it is quite clear that the petitioner has a genuine grievance, in that he has been illegally deprived of his valuable right of franchise and is entitled to relief from this Court in the present proceedings. His application for inclusion of his name in the electoral roll should have been decided after affording him a reasonable opportunity of hearing, with the promptitude enjoined by the statute, and on the facts and circumstances of this case, before the date of filing nomination-papers. This has not been done and no legal justification has been shown for this failure. The order disallowing the petitioner's application on the ground, as pleaded in the written statement of respondent No. 3, that the petitioner's name had already been included in the electoral roll of village Gurditpura, being clearly contrary to law, is also unsustainable. As I understand the petitioner's grievance, is this very inclusion of his name in the other electoral roll to which he was objecting; to refuse relief to the petitioner on this ground is thus somewhat difficult to appreciate. Indeed, this plea in the written statement of respondent No. 3 appears to be based on a misapprehension about the true scope and effect of section 23 of the Act. It may be recalled that this plea in defence was not seriously persisted in before us in the arguments. We are in the circumstances constrained to quash the order rejecting the petitioner's application for including his

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name in the electoral roll of village Arno and to direct that the said application be disposed of afresh in accordance with law in the light of this order. The election held on 1st January, 1964 must also be quashed, and we hereby so order. There is accordingly now no question of declaring or not declaring the result of the election which was stayed by the Motion Bench. We need say nothing about the other more than 300 persons in regard to whom also the petitioner has made a grievance in his petition, because in the present proceedings, we are only concerned with the petitioner's grievance in so far as it affects him personally, though we have little doubt that if other persons, including those for whom the petitioner has also ventilated grievance, apply for inclusion of their names in an electoral roll, the authorities concerned would deal with those applications in accordance with law in the light of this order. The petition is accordingly allowed in the terms just mentioned. The petitioner will have his costs which we fix at Rs. 100.

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S. B. CAPOOR, J.—I agree.

K.S.K.

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Before Mehar Singh and Prem Chand Pandit, JJ.

PIYARE LAL,—Petitioner.

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THE DEPUTY COMMISSIONER, HOSHIARPUR, AND ANOTHER,—
Respondents.

Civil Writ No. 2405 of 1965

1965

October, 13th

Punjab Gram Panchayat Act, 1952 (IV of 1953)—S. 102(2) (e)—Whether liable to be struck down—S. 102(1)—Deputy Commissioner—Whether competent to suspend Sarpanch or panch when enquiry against him is pending before another officer—Sarpanch suspected of embezzlement of Panchayat funds—Whether can be suspended.

Held, that clause (e) of sub-section (2) of section 102 of the Punjab Gram Panchayat Act, 1952, is not liable to be struck down as being vague and conferring uncontrolled power on a Deputy Commissioner. The expression "interest of the public" definitely covers the case in which an allegation of embezzlement of the Panchayat funds is under enquiry.

Held, that the Deputy Commissioner has the power to suspend a Sarpanch or a panch when enquiry against him is pending.