

ATUL PATER v. STATE OF HARYANA, (2022-1)205 PLR 491

PUNJAB AND HARYANA HIGH COURT

Before: Ms. Justice Ritu Bahri and Mrs. Justice Archana Puri.

ATUL PATER – Petitioner,

Versus

STATE OF HARYANA and others – Respondents.

CWP-20019-2021

Haryana Panchayati Raj Act, 1994 (11 of 1994) Section 20 – Seats reserved for Scheduled Castes – Petition seeking correction in the figure qua the population of Scheduled Caste category based on information given by the Women and Child Development Project Officer under RTI – State is not bound by any information given by the Women and Child Development Project Officer.

Mr. S.S. Patter, for the petitioner. Mr. Ankur Mittal, Addl. A.G., Haryana.

Ritu Bahri, J. (oral) – (1st October, 2021) – Petitioner is seeking quashing of the order dated 29.06.2021 (Annexure P-5) passed by the Deputy Commissioner, Hisar, whereby Ward No.7 of Zila Parishad, Hisar, has been reserved for the candidate of Scheduled Caste category.

2. In the present case, the Deputy Commissioner, Hisar, vide order dated 29.06.2021 (Annexure P-5), has issued a notification whereby the wards of Zila Parishad, Hisar, have been reserved in the following manner:-

Sr. No.	Ward No.	Name of Block in which ward is situated	Total Population	Population of S.C.	% of S.C. Population
1.	6	Barwala	33258	14549	43.75
2.	10	Agroha/Barwala	39469	12771	32.36
3.	16	Hisar-1/Hansi-1	38082	10922	28.87
4.	14	Hisar-2	36654	10478	28.59
5.	7	Uklana	39768	11346	28.53
6.	11	Hisar-2	41597	11737	28.72
7.	21	Hansi-1	41710	11784	28.21

3. There were total 30 wards of Zila Parishad, Hisar, out of which 07 wards have been

reserved for the candidates of Scheduled Caste category as per maximum percentage of Scheduled caste population. As pleaded by the petitioner himself, the above population has been taken as per the last census of the year 2011.

4. Grievance of the petitioner is that he has made a representation dated 18.08.2021 (Annexure P-4) to the Deputy Commissioner, Hisar, seeking correction in the figure qua the population of Scheduled Caste category in the record of census-2011 relating to Ward No.7, Hisar. However, no action has been taken thereon till date. Petitioner has stated that as per the last census, population of the Scheduled Caste has been shown as 28.53%, but actually these figures of Scheduled Caste category stands corrected to 27.69%.

5. In the above representation, it is nowhere mentioned, as to how the figure in respect of population of Scheduled Caste has been assessed as 27.69%.

6. Learned counsel for the petitioner has referred to a letter dated 17.08.2021 (Annexure P-2), which is an information received from the Women and Child Development Project Officer, Uklana, under the Right to Information Act, 2005. In this letter, total population of SC category in villages Madanpura and Kundanpura in 2021 is reflected as 950 & 117 respectively.

7. Section 120 of the Haryana Panchayati Raj Act, 1994 provides for reservation of wards for Scheduled Castes and Backward Classes, which reads as under:-

120. (1) Seats shall be reserved by the Government for the Scheduled Castes in every Zila Parishad in the State and the number of seats so reserved shall bear, as nearly as may be the same proportion to the total number of seats to be filled by direct election in that Zila Parishad as the population of the Scheduled Castes in the district bears to the total population in the district and such seats shall be allotted territorial constituencies in that district having maximum population of persons belonging to Scheduled Castes

(2) One-third of the total number of seats reserved under sub-section (1) shall be reserved for women belonging to the Scheduled Castes and such seats may be allotted by rotation to wards reserved under sub-section (1).

(3) One-third (including the number of seats reserved for women belonging to the Scheduled Castes) of the total number of seats to be filled by direct election in a Zila Parishad shall be reserved for women and such seats shall be allotted by rotation and by lots to different constituencies in that district except those falling in sub-sections (1) and (2).

(4) The offices of the President in the Zila Parishad shall be reserved for the Scheduled Castes and Women:

Provided that the number of offices of the Presidents reserved for the Scheduled Castes in the State shall bear as may be the same proportion to the total number of such offices in the Zila Parishad as the population of the Scheduled Castes in the State bears to the total population of the State :

Provided further that not less than one-third of the total number of offices of Presidents in the Zila Parishads shall be reserved for women including the offices reserved for Scheduled Caste Women : Provided further that the number of offices of presidents under this sub-section shall be rotated to different Zila Parishads firstly having the largest maximum population of Scheduled Castes and secondly having the next largest maximum population of such Classes and so on.

(5) The reservation of seats under sub-section (1) and (2) and the reservation of offices of Presidents (other than the reservation of women) under sub-section (4) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India.

(6) One seat in every Zila Parishad shall be reserved for the persons belonging to Backward Classes and such seat shall be allotted to such wards having maximum population of person belonging to Backward Classes :

Provided that reservation of seats under sub-sections (1), (2), (3), (4) and (6) shall be reviewed after every decennial census.”

7. As per the proviso, the aforesaid reservation is to be reviewed after every decennial census.

8. Learned counsel for the petitioner has not been able to cite any judgment to show that the information given by the Women and Child Development Project Officer, Uklana (Annexure P-2) can be made basis by the Deputy Commissioner, Hisar to reserve the wards of Zila Parishad, Hisar. At the same time, a perusal of the order dated 29.06.2021 (Annexure P-5) shows that notification dated 15.04.2021 has been made basis for carving out the wards in Zila Parishad, Hisar. The Deputy Commissioner, Hisar, is not bound by any information given by the Women and Child Development Project Officer, Uklana (Annexure P-2). Learned counsel could not cite any precedent, whereby last census has not been made basis for reserving the wards for the purpose of conducting Zila Parishad elections.

9. In view of the above, no case is made out to give direction to the Deputy Commissioner, Hisar, to look into the representation dated 18.08.2021 (Annexure P-4). No merits. Dismissed.

Sd/- Archana Puri, J.R.M.S.
Petition dismissed.

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