

Ramesh Dalal

v.

Union of India & Others

(Supreme Court Of India)

HON'BLE MR. JUSTICE A.K. PATNAIK HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

Review Petition (Civil) No. 1784 & 1785 Of 2013 In Civil Appeal No. 3040 & 3041 Of 2004 With Review Petition (Civil) No. 1854 & 1855 Of 2013 In Civil Appeal No. 3040 & 3041 Of 2004 | 19-11-2013

A.K. Patnaik, J. & Sudhansu Jyoti Mukhopadhaya, J.

1. These are petitions for review of our order dated 10th July, 2013. By the said order dated 10th July, 2013, we had dismissed the Civil Appeal Nos. 3040-3041 of 2004 filed by the Chief Election Commissioner and others against the common order dated 30th April, 2004 of the Patna High Court in CWJC No. 4880 of 2004 and CWJC No. 4988 of 2004 in which the High Court held that a person who is in police custody or in imprisonment is not an elector and therefore cannot contest election to the State Legislature or to the Parliament.

2. The aforesaid common order dated 30th April, 2004 of the Patna High Court in CWJC No. 4880/2004 and CWJC No. 4899/ 2004 as well as our order dated 10th July, 2013 was based on the interpretation of the provisions of the Representation of People Act, 1950 as well as the Representation of People Act, 1951 and in particular Section 62 (5) of the Representation of People Act, 1951 which provided that no person, if he is confined in prison, whether under a sentence of imprisonment or transportation or otherwise, or is in police custody shall vote at any election.

3. After our order dated 10th July, 2013, in Civil Appeals, Representation of People Act, 1951 has been amended by the Representation of People (Amendment and Validation) Act, 2013 and a proviso has been inserted under Section 62(5) of the Representation of People Act, 1951 that by reason of the prohibition to vote under Section 62 (5) of the Act, a person whose name has been entered in the electoral roll shall not cease to be an elector. Section 1(2) of the Amendment and Validation Act, 2013 states that the aforesaid amendment is deemed to have come into force on 10th July, 2013. Further, Section 4 of the Amendment and Validation Act, 2013 provides that the provisions of the Representation of People Act, 1951, as amended by the Amendment and Validation Act, 2013 shall have and shall be deemed to have always to have effect for all purposes as if the provisions of this Act had been in force at all material times notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority.

4. As a consequence of the Amendment and Validation Act, 2013 a person does not cease to be an elector only by reason of his being in police custody or in imprisonment. It is, therefore, not necessary for us to consider these review petitions which are, accordingly, dismissed and the prayer for intervention is rejected.