

PETITIONER:
DHARTI PAKAR MADAN LAL AGARWAL

Vs.

RESPONDENT:
SHRI K.R. NARAYANAN & ORS.

DATE OF JUDGMENT: 24/11/1997

BENCH:
S.C. AGARWAL, G.N. ROY, A.S. ANAND, S.P. BHARUCHA, S.RAJENDRA BABU.

ACT:

HEADNOTE:

JUDGMENT:

THE 24TH DAY OF NOVEMBER, 1997

Present:

Hon'ble Mr. Justice S.C. Agarwal
Hon'ble Mr. Justice G.N. Ray
Hon'ble Mr. Justice A.S. Anand
Hon'ble Mr. Justice S.p. Bharucha
Hon'ble Mr. Justice S.Rajendra Babu

Ashok Desai, Attorney General, T.R. Andhyarujina, Solicitor General, Soli J. Sorabjee, Sr. Adv., (C.L. Sahu,) in-person, S.K. Bandyopadhyay, (Dharti Pakar and M.L. Agarwal,) Advs.-In-Person, P.H. Parekh, Sameer Parekh, Ms. Ruchi Khurana, P.Parmeswaran, Pallav Shishodia, Subrat Birla, N.K. Kaul, Manoj Wad and A.M. Khanwilkar, Advs. with them for the appearing parties.

J U D G M E N T

The following Judgement of the Court was delivered:
S.C. Agarwal, J.

This petition has been filed by the petitioner in person. It has been described as Election Petition-cum-Writ Petition. During the course of his submissions before the Court it was pointed out to the petitioner that such a composite petition is not maintainable and that the petitioner could choose to have the petition treated as an election petition or a writ petition under Article 32 of the Constitution. The petitioner submitted that the petition be treated as a writ petition and that the reliefs sought by him regarding setting aside of the election of respondent No. 1 may be deleted. As per the said statement of the petitioner this petition has been treated as a writ petition filed under Article 32 of the Constitution and reliefs (a),(d) and (h) has been deleted. The petition is thus confined to the Challenge to the validity to the provisions of Sections 5B and 5C of the Presidential and Vice-Presidential Elections Act, 1952 [hereinafter referred to as 'the Act'] as amended by Presidential and Vice-Presidential Elections [Amendment] Ordinance, 1997 [No. 13 of 1997], hereinafter referred to as 'the Ordinance.' Insofar as the challenge to the validity of Sections 5B and 5C, as amended by Act 5 of 1974 and as they stood prior to the promulgation of Ordinance of 1997, has been upheld by a 7-judge bench of

this Court in Charan Lal Sahu vs. Neelam Sanjeeva Reddy, 1978 (1) SCR 1. The validity of Ordinance was challenged before this Court in W.P.(C) Nos.293/97 and 322/97 which have been dismissed by orders dated June 19, 1997 and July 11,1997 respectively. The Ordinance has been replaced by the Presidential and Vice-Presidential Elections [Amendment] Act, 1997 [Act 35 of 1997]. The validity of the said Act was challenged in W.P. (C) No. D 13334/97 and the said writ petition was dismissed by order dated October 13, 1997.

The petitioner has submitted that the decision of this Court Charan Lal Sahu vs. Neelam Sanjeev Reddy [supra] needs reconsideration. We do not find any substance in the said submission of the petitioner. There is thus no merit in this writ petition and it is accordingly dismissed. The petitioner has also filed an application seeking exemption from payment of court fee. We have perused the said application. The said application is allowed.