

CASE NO.:
Appeal (civil) 701 of 2004

PETITIONER:
SANDHYA THAKUR

RESPONDENT:
VIMLA DEVI KUSHWAH & ORS.

DATE OF JUDGMENT: 28/01/2005

BENCH:
C.J.I, G.P. MATHUR & P.K. BALASUBRAMANYAN

JUDGMENT:
J U D G M E N T

P.K. BALASUBRAMANYAN, J.

1. The appellant was born a Maharashtrian Barhmin. She married one Naresh Kumar Thakur who is a Namdev by caste. In the election to the Municipal Corporation of Gwalior, the appellant filed her nomination for election for the post of a Corporator for Ward No.50, a ward reserved for backward communities. The appellant was declared elected. The defeated candidate - the respondent herein challenged the election of the appellant in an Election Petition. The District Judge held that the nomination paper of the appellant was wrongly accepted and that her election was liable to be set aside since she could not contest the seat reserved for backward communities. The appellant filed a revision before the High Court. The High Court after consideration of the relevant aspects confirmed the decision of the District Court. The court overruled the contention of the appellant that the Circular dated 12.0.3.1997 issued by the Government of Madhya Pradesh was restricted to employment or admission alone and did not apply to elections to local bodies. The High Court also noticed the decisions of this Court in Valsamma Paul vs. Cochin University and others (1996 (3) SCC 545), N.E. Horo vs. Smt. Jahan Ara Jaipal Singh (AIR 1972 SC 1840) and Kailash Sonkar vs. Smt. Maya Devi (AIR 1984 SC 600).

2. In the light of the decision in Valsamma Paul vs. Cochin University and others (supra) and our decision rendered today in Civil Appeal Nos.4413-14 of 2003, which were heard along with this appeal, it must be held that the appellant, who by birth did not belong to a backward class or community, would not be entitled to contest a seat reserved for a backward class or community, merely on the basis of her marriage to a male of that community. Therefore, it is not possible to accept the argument that the appellant was entitled to contest a seat reserved for a backward community merely because of her marriage to a person belonging to the Namdev community or caste. We also see no reason to differ from the High Court in its view that the Circular dated 12.0.3.1997 was not restricted in its operation to employment and admission to an educational institution, but was also relevant and applicable in elections to local bodies. It is, thus, found that both the reasons given by the High Court for affirming the decision of the District Judge setting aside the election of the appellant are sustainable. In view of this we have no hesitation in confirming the decision of the High Court and in dismissing this appeal. Hence, we dismiss this appeal with costs.