

DHARTI PAKAR MADAN LAL AGRAWAL

A

v.

K.R. NARAYANAN AND ORS.

NOVEMBER 24, 1997

[S.C. AGRAWAL, G.N. RAY, DR. A.S. ANAND, S.P. BHARUCHA
AND S. RAJENDRA BABU, JJ.]

B

Election Law :

Presidential and Vice Presidential Elections Act, 1952 :

C

Sections 5-B and 5-C as amended by Presidential and Vice Presidential Election (Ordinance,) 1997—Validity of—Validity already upheld by 7-Judges Bench of this Court in Charan Lal Sahu case—Held, Charan Lal Sahu case does not require reconsideration.

D

Practice and Procedure :

Composite petition—Maintainability—Petition described as election-cum-writ petition—Held, such petition not maintainable—Constitution of India—Article 32.

Petitioner filed a composite petition under Article 32 of the Constitution of India describing it as Election Petition-cum Writ Petition challenging Sections 5-B and 5-C of the Presidential and Vice Presidential Elections Act, 1952 as amended by Presidential and Vice Presidential Election (Ordinance), 1997. This Court pointed out to the Petitioner that such Composite petition was not maintainable. The Petitioner then prayed this Court to treat his Petition as Writ petition and that the relief sought by him regarding setting aside of the election of Respondent No. 1 may be deleted.

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Dismissing the Petition, this Court

HELD : 1. There is no substance in the submission of the Petitioner that the decision of this Court in *Charan Lal Sahu v. Neelam Sanjeeva Reddy** needs reconsideration. There is thus no merit in the writ petition.

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[336-H]

**Charan Lal Sahu v. Neelam Sanjeeva Reddy*, [1978] 1 SCR 1, referred to.

H

A ORIGINAL JURISDICTION : Writ Petition (c) No. 622 of 1997.

(Under Article 32 of the Constitution of India.)

B Ashok Desai, Attorney General, T.R. Andhyarujina, Solicitor General, Soli J. Sorabjee, (C.L. Sahu,) in-person, S.K. Bandyopadhyay, (Dharti Pakar and M.L. Agarwal,) 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 for the appearing parties.

The Judgment of the Court was delivered by

C **S.C. AGRAWAL, J.** This petition had 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) have 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 a '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 v. 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 order 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.

H The petitioner has submitted that the decision of this Court *Charan Lal Sahu v. Neelam Sanjeeva Reddy*, [supra] needs reconsideration. We do not find any substabnce in the said submission of the petitioner. There is thus

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no merit in this writ petition and it is accordingly dismissed. The petitioner A has also filed an application seeking exemption from payment of court fee. We have perused the said application. The said application is allowed.

R.K.S.

Petition dismissed.