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WP-38050-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

WRIT PETITION No. 38050 of 2024*UMANG SINGHAR**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

.....
Appearance:

Shri Vibhor Khandelwal - Advocate for the petitioner.

Shri Prashant Singh, learned Advocate General along with Shri
Shreyraj Saxena, Dy. A.G. for respondent No. 1.

Shri Manish Nair - Advocate for respondent No.4.

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Reserved on :- 31.07.2025

Pronounced on :- 01.09.2025

ORDER

This petition under Article 226 of the Constitution of India has been preferred by the petitioner being aggrieved by the inaction on part of respondent No.2 in failing to adjudicate and decide the disqualification petition filed by the petitioner under Rule 6 of the Madhya Pradesh Vidhansabha Sadasya (Dal Parivartan Ke Adhar Par Nirharta) Niyam, 1986 seeking disqualification of respondent No.4 from being a member of Madhya Pradesh Legislative Assembly on the ground of committing defection as per paragraph 2(1)(a) of Schedule 10 of the Constitution of India.

02. The grievance of the petitioner is that respondent No.4 had



contested the Madhya Pradesh State Assembly Elections, 2023 from constituency No.35, Bina as an approved candidate of Indian National Congress and was elected as returned candidate from the said constituency. After being elected as Member of Assembly, respondent No.4 has voluntarily given up her membership from the Indian National Congress and has joined Bhartiya Janta Party which amounts to defection as provided under paragraph No.2(1)(a) of Schedule 10 of the Constitution of India hence she is liable to be declared as disqualified from continuing as a Member of Assembly in light of Article 191(2) of the Constitution of India. The petitioner has filed a petition before respondent No.2 for declaring respondent No.4 as disqualified from being Member of the Assembly but respondent No.2 has kept the said disqualification petition in abeyance and has not taken any decision thereon.

03. The respondents have filed applications bearing I.A. No.2096/2025 and I.A. No.2393/2025 raising preliminary objection to the maintainability of the petition on the ground of lack of territorial jurisdiction of this bench submitting that the office of Speaker of the Legislative Assembly is situated at Bhopal. Respondent No.4 is a Member of Legislative Assembly from Bina, District Sagar. No cause of action has arisen within the territorial jurisdiction of this Bench. Only for the reason that the petitioner is a resident of District Dhar and is residing within the territorial jurisdiction of this Bench, it would not confer jurisdiction upon this Bench to entertain this petition. Reliance has been placed by the learned counsel for the respondents on the decisions of the Apex Court in *Oil and Natural Gas Commission Vs.*



Utpal Kumar Basu and Others 1994 (4) SCC 711, Union of India and Others Vs. Adani Exports Ltd. and Another 2002 (1) SCC 567, Kusum Ignots and ALLOys Ltd. Vs. Union of India and Another and State of Goa Vs. Summit Online Trade Solutions Private 2023 (7) SCC 791 and of this Court in *Amit Singh Tomar Vs. Union of India and Others* W.P. No.19795/2024 decided on 24.07.2024, and *Rajendra Singh Bhadoriya Vs. Union of India and Others 2019 SCC Online MP 6110*.

04. Learned counsel for the petitioner has submitted that the petitioner is a permanent resident of District Dhar and is an MLA of Legislative Assembly from Gandhwani, constituency No.197. Partial cause of action to file the instant petition arises to the petitioner in Dhar which falls within the territorial jurisdiction of this Bench in light of Article 226(2) of the Constitution of India hence this Bench has the jurisdiction to hear and decide this petition. Reliance has been placed by him on the decisions in *Keisham Meghachandra Singh Vs. Speaker, Manipur Legislative Assembly and Others 2021 (16) SCC 503, Rajendra Singh Rana and Others Vs. Swami Prasad Maurya and Others 2007 (4) SCC 270, Ravi S. Naik Vs. Union of India and Others 1994 Supp (2) SCC 641, K.P. Govil Vs. Jawaharlal Nehru Krishi Vishwa Vidyalaya, Jabalpur and Another 1987 SCC OnLine MP 41, Ambica Industries Vs. Commissioner of Central Excise 2007 (6) SCC 769, Chandrahas Vs. M.P. Power Transmission Company Ltd. Jabalpur and Others 2022 SCC OnLine MP 1762, Tirupati Dhar Renewable Power Pvt. Ltd. Vs. M.P. Power Management Co. Ltd. and Others 2017 SCC OnLine MP 2051, All India Steel Re-Rollers Association Vs. Union of India and*



Others 2016 SCC OnLine MP 2027 and Shrigovind Niranjana Dan others
Vs. State of M. P. and others 2024 SCC Online MP 7401.

05. I have considered the submission of learned counsel for the parties and have perused the record.

06. At this stage, it would be profitable to refer to the relevant extract of Article 226 of the Constitution of India which is as under:-

"226. Power of High Courts to issue certain writs

(1)Notwithstanding anything in article 32 every High Court shall have powers, throughout the territories in relation to which it exercise jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warrantor and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

[(1-A) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories."; was inserted after 15th Amendment]

(2)The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the scat of such Government or authority or the residence of such person is not within those territories.

*(3) *****

*(4) **** "*

07. The issue as to whether place of residence of a litigating party would confer jurisdiction to the High Court within whose territorial jurisdiction he resides has been considered by this Court in the case o f *Rajendra Singh Bhadoriya (Supra)*. The relevant extract of the said



judgment is as under:-

“ 15. The coordinate Bench of this Court in the case of Prem Prakash Ambedkar v. Union of India, reported in 2001 (1) MPHT 176 has held as under:—

*“12. *****

13. So far as the petitioner's residence is concerned, it would always depend upon his own choice. He may settle in any part of India, but his settlement would not clothe such Court within whose jurisdiction he is residing any territorial jurisdiction. It is only that the Court, where the cause of action either in whole or in part arises, would have the jurisdiction to hear and decide a lis.”

7. XXXXX

*8. ******

The Jammu and Kashmir High Court in the case of Jaswant Singh v. UOI, reported in 2017 LIC 2996 has held as under:—

“15. In view of the pleadings of the parties and the uncontroverted stand taken by the respondents in their objection, it is evident that no legal right of the petitioner has prima facie either been infringed or threatened to be infringed by the respondents within the territorial limits of this Court's jurisdiction. The petitioner has merely filed a statutory appeal during his tenure of posting at Jammu which does not amount to infringement of legal right of the petitioner within the territorial jurisdiction of this Court. Mere posting of the petitioner at the time of filing of the petition within the territorial jurisdiction of this Court taking into account the fact that entire action taken against the petitioner which is subject-matter of challenge of this petition has been taken place beyond the territorial jurisdiction of this Court would not confer any territorial jurisdiction on this Court to entertain the writ petition. The decision relied on by the learned senior counsel for the petitioner in the case of Nawal Kishor Sharma supra has no application to the fact situation of the case as the appellant in the said case was suffering from serious heart ailment which forced him to stay in the native place. Besides that, it is pertinent to mention here that the respondents responded to his representations and the same were communicated to him on his home address in Bihar. In the instant case, the representation submitted by the petitioner from the State of Jammu and Kashmir have failed to evoke any response, therefore it cannot be said that any part of the cause of action has arisen within the territorial jurisdiction of this Court. In the aforesaid context, the Supreme Court has held that part of cause of action has arisen within the jurisdiction of Patna High Court, which is not the case here.”

16. The moot question for consideration is that:—

“Whether the place of residence can be said to be the integral part of cause of action or not?”



17. The cause of action would mean those disputed issues which are required to be decided while adjudicating the claim of the litigating parties. When the place of residence of a litigating party has no relevance with the subject-matter of the lis, then the same cannot be said to be an integral part of cause of action.

*18. *****

19. Thus, Article 226 of the Constitution of India does not provide that the residence of the petitioner would give rise to a part of cause of action."

08. In ***Amit Singh Tomar (Supra)*** also it was held that mere posting of the petitioner at Gwalior challenging his dismissal order passed at Srinagar (Jammu and Kashmir) would not confer territorial jurisdiction upon the Court at Gwalior merely because the petitioner is posted at Gwalior.

09. It may also be considered as to whether the place of residence of the petitioner has any relevance with the subject matter of the lis to ascertain as to whether the same can be said to be an integral part of the cause of action. The place of sitting of respondent No.2 is at Bhopal and he is required to pass the order at Bhopal. Respondent No.4 has been elected from Bina constituency in District Sagar which is beyond the territorial jurisdiction of this Bench. The integral part of cause of action has hence undoubtedly arisen beyond the territorial jurisdiction of this bench and merely for the reason that the petitioner is resident within the territorial jurisdiction of this bench, it cannot be said that the same has any relevance with the subject matter of the lis or is an integral part of the same. The petitioner has failed to establish that a legal right claimed by him has prima facie been infringed or is threatened to be infringed by the respondents within the territorial limits of this Bench. The fact that the petitioner is resident within the territorial jurisdiction of this bench has no bearing with the lis or the dispute involved in the present case.



10. In the present case, the doctrine of forum convenience would also be squarely applicable. Even if it is assumed for the sake of arguments that a small part of cause of action arises within the territorial jurisdiction of this bench on account of residence of the petitioner, then also the same is not a determinative factor compelling this Bench to decide the matter on merits. In my opinion, it is a fit case to refuse exercise of discretionary jurisdiction by invoking the doctrine of forum convenience. In this regard reliance is placed upon the decision of the Apex Court in *Kusum Ingots and Alloys Ltd. (Supra)*.

11. The judgments which have been relied upon by the learned counsel for the petitioner are either on the merits of the case as or are not in respect of the issue as raised by the respondents as regards territorial jurisdiction of this bench hence do not benefit him in any manner.

12. Thus, in view of the aforesaid discussion, I am of the opinion that this Bench has no territorial jurisdiction to entertain the present petition which is therefore liable to be and is hereby dismissed for that reason. However, the petitioner shall be at liberty to approach the competent Bench having territorial jurisdiction in accordance with law.

(PRANAY VERMA)
JUDGE

Shilpa