

CIVIL MISCELLANEOUS

Before Inder Dev Dua and Daya Krishan Mahajan, JJ.

KABUL SINGH,—*Petitioner.*

versus

RAM SINGH AND OTHERS,—*Respondents.*

Civil Writ No. 1895 of 1964.

1964

October, 6th

Punjab Official Languages Act (XXVIII of 1960) — S. 4(c) — Court — Meaning of — Punjab Gram Panchayat Act, 1952 (IV of 1953) — S. 8 — Prescribed Authority — Whether a Court within the meaning of S.4(c) of the Punjab Official Languages Act — Election petition and all proceedings during its trial taken in English language — Order of the Prescribed Authority deciding the election petition also in English — Whether liable to be quashed as being in violation of section 3 of the Punjab Official Languages Act.

Held, that the word "Court" has been used in section 4(c) of the Punjab Official Languages Act, 1960, in a wide and comprehensive sense by including within its fold all the judicial Tribunals situated within the jurisdiction of the High Court. To adopt a narrower or a more restricted construction would scarcely be calculated to effectuate the purpose of leaving untouched the healthy trend of development of our judicial institutions under the Rule of law, which seems apparently to underlie the enactment of section 4(c).

Held, that the Prescribed Authority hearing election petitions under the Punjab Gram Panchayat Act, 1952, is a Court within the contemplation of section 4(c) of the Punjab Official Languages Act, 1960, in spite of its title or name. The word "Court" is not a term of art with a fixed meaning but has a variable import indicative of divergent things. A Tribunal officially assembled under authority of law at an appropriate time and place for administering justice through which the State enforces its sovereign rights and powers may appropriately be called a Court. Its jurisdiction and function would necessarily appear to be more important than its title or name. The Prescribed Authority has most of the trappings of a Court and its decision is truly judicial, with the result that it is essentially a judicial Tribunal, called upon to decide the controversy before it affecting the rights of the parties arrayed on opposite sides in accordance with law and judicial principles exercising jurisdiction by reason of sanction of law, though it may not be one of the civil Courts constituted under the Punjab Courts Act or a criminal Court under the Code of Criminal Procedure and may also not be a Court subordinate to the High Court. That this authority exercises judicial power while trying an election petition appears to be almost an irresistible inference. The proceedings before the Prescribed Authority in an election petition can be in English and the order of the Prescribed Authority deciding the election petition is not liable to be quashed on the ground that the proceedings were not taken and the order was not passed in the official language prescribed by section 3 of the Punjab Official Languages Act, 1960.

Held, further that even if the Prescribed Authority is not a Court within the meaning of section 4(c) of the Punjab Official Languages Act, 1960, the order passed in English deciding an election petition cannot be said to be tainted with jurisdictional or such other serious legal infirmity that the High Court should quash it on the writ side. Section 3 of the Punjab Official Languages Act is not intended to affect the jurisdiction of the Prescribed Authority either in respect of the subject matter of the election petition or in respect of the parties before it. Jurisdiction largely means the power to entertain the election petition, consider the merits of the controversy and render a binding judgment. The language in which the litigating parties are permitted to address the prescribed authority, whether

orally or in writing, is a matter which is ordinarily taken to pertain to the domain of procedure and it does not seem to impair its jurisdiction or power to entertain and adjudicate upon the election petition. Jurisdiction relates to the forum that may hear and determine the controversy and procedure to the form and manner of conducting the proceedings. By entertaining the election petition in English language, the prescribed authority cannot be considered to have acted in excess of the jurisdiction conferred on it by the statute creating it. Rules of procedure, it may be called, are merely a channel to administer the law and are accordingly meant to subserve and not to govern the cause of justice.

Petition under Articles 226 and 227 of the Constitution of India, praying that a writ of certiorari, mandamus prohibition or any other writ, order or direction be issued quashing the impugned order of the prescribed Authority, dated 24th of August, 1964.

R. SACHAR, ADVOCATE, for the Petitioner.

MELA RAM SHARMA, ANAND SARUP, R. S. MITTAL AND R. L. SHARMA, ADVOCATES, for the Respondents.

ORDER

The judgment of the Court was delivered by:—

Dua, J.

DUA, J.—This petition under Articles 226 and 227 of the Constitution challenges the order of Shri Ajit Singh Nagpal, Ilaqa Magistrate, Panipat, allowing the election petition of Ram Singh, (respondent No. 1 in this Court) questioning the election of Kabul Singh, (Petitioner in these proceedings), as Sarpanch of Gram Sabha, Kabri, Tehsil Panipat. The election had taken place in December, 1963. The challenge to the election was based, so far as is relevant for our purpose, on the allegation that Kabul Singh, was a tenant of the Gram Sabha Kabri, on the date of the election. The learned Magistrate trying the election petition found the only issue arising in the case in favour of the election petitioner and holding Kabul Singh to be a tenant of the Gram Sabha, set aside his election and directed a fresh election to be held.

Before us, in this petition, the main question falling for determination is whether the impugned order of the prescribed authority is liable to be quashed on the ground that the election petition and, indeed all the proceedings

during the course of its trial and the order of the prescribed authority, are all in English language, and, therefore, violative of section 3 of the Punjab Official Languages Act No. 28 of 1960. This section is in the following terms:—

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- “3. Official language for Hindi and Punjabi Regions.—(1) As from the second day of October, 1960, Hindi in the Hindi Region and Punjabi in the Punjabi Region shall be the official language for all purposes in the districts or parts thereof situated in these Regions except such purposes as are specifically excluded by the Constitution and in respect of such matters as may be specified by the State Government from time to time by notification.
- (2) The Official language may be used for the purposes of all communications from the districts or parts thereof to the Commissioners, Heads of Departments and the State Government until the second day of October, 1962, and shall be so used after that date.”

According to section 4, nothing in section 3 is to apply to:—

- (a) the use of English till the second day of October, 1962, by any Government servant who is using English as the official language immediately before the 28th September, 1960; or (b) the use of Urdu, till the second day of October, 1962, by any Government servant not conversant with the Official language immediately before the 28th September, 1960; or (c) the use of language in Court subordinate to, or within the jurisdiction of the High Court of Punjab.

Section 5 empowers the State Government to make rules, but our attention has not been drawn to any rules made thereunder. The petitioners' learned counsel has very strongly urged that from the second day of October, 1960, Hindi in the Hindi Region and Punjabi in the Punjabi Region have become the Official languages for all purposes except those excluded specifically by the Constitution or in respect of such matters as may be specified by the State Government from time to time by notification. The

Kabul Singh language to be used by the prescribed authorities enquiring
 v. into election petitions in respect of election to Gram
 Ram Singh and Panchayats have not been so specified by the State
 others Government, though in respect of a number of other
 _____ matters such specifications have been made.
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On behalf of the Advocate-General, Shri M. R. Sharma, has contended that section 4(c) of the Act takes this case out of the purview of section 3 because the prescribed authority in the case in hand is a Court subordinate to or within the jurisdiction of this High Court. In this connection, reference has also been made to section 13(g) of the Punjab Gram Panchayat Act as amended in 1962, according to which every election petition has to be tried by the prescribed authority, as nearly as may be, in accordance with the procedure applicable to the trial of suits under the Code of Civil Procedure. Of course, this is subject to the provisions of the Gram Panchayat Act and the rules made thereunder. The provisions of the Indian Evidence Act have similarly been held applicable in all respects to the trial of election petitions,—*vide* section 13(g)(2). The counsel has in this connection relied on section 137, Civil Procedure Code, sub-section (3) of which lays down that where the Code requires or allows anything other than the recording of evidence to be done in writing in any Court subordinate to a High Court, such writing may be in English. The submission is that if the procedure applicable under the Code of Civil Procedure is also to govern the trial of election petitions; then the provisions of section 137(3) would also be attracted and under this provision pleadings have to be in writing and such pleadings could be written in English language. Mr. Sharma, has thus made a reference to section 6 of the Code of Criminal Procedure which describes the classes of criminal Courts and has submitted that Shri Ajit Singh Nagpal the prescribed authority, was a Magistrate and, therefore, a criminal Court, as such of course it is contended that it would be subordinate to and also within the jurisdiction of this Court. Our attention has also been drawn to two decisions of the Madhya Pradesh High Court reported as *L. M. Wakhare v. The State* (1) and *Dayabhai v. Natwarlal* (2), but I do not think these decisions materially help us in deciding the question raised.

(1) A.I.R. 1959 M.P. 208.

(2) A.I.R. 1957 M.P. 1.

Shri Anand Sarup, has placed reliance on Article 350 of the Constitution which falls under Chapter IV containing special directives and provides that every person shall be entitled to submit a representation for the redress of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be. It is emphasised that an election petition is really a kind of a representation for the redress of grievance to an authority in this State and that Ram Singh, was entitled by virtue of this Article to submit the election petition in English language because indisputably English is being used in this State in some departments under official sanction. Reference has also been made by the counsel to *Agnani v. Badri Dass, etc.* (3), a decision by the Supreme Court, for the proposition that unless an order suffers from an error apparent on the face of the record and the error is one of law, this Court should not allow its writ jurisdiction to be invoked. It has in this connection been emphasised that the petitioner had himself also filed his reply to the election petition in English language and had taken part throughout the trial without any objection to or protest against the use of English language during the course of trial and that for this reason he should not be permitted to raise this objection in the present proceedings. It has further been contended that in section 4(c) of the Punjab Act No. 28 of 1960, the word "Court" has been used in a general sense and, therefore, the prescribed authority with which this Court is concerned should be considered to be included within the meaning of this word. It is added that section 3 of this Act, according to the submission, is confined only to officers while functioning on the administrative side.

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Shri Sachar, has in reply sought some support from the following observations made in *Ahsan Elahi v. Mehr Elahi* (4) at p. 304:—

"The appellant on 1st November, 1947 sent an application by post to the Registrar saying that this woman had died and applying that her legal representatives be brought on the record. This application is in Urdu not being the language of this Court, an application in that

(3) 1963 (I) LL.J. 684.

(4) A.I.R. 1950 E.P. 302.

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language is, in my opinion, not a proper application."

These observations are, in my opinion, absolutely of no assistance to the petitioner because we know that although the language of this Court is English, affidavits sworn in Urdu language are invariably accepted in this Court provided they are accompanied by an English translation.

According to Article 343(1) of the Constitution, the Official language of the Union is Hindi in Devnagri script but according to sub-Article (2), for a period of 15 years from the commencement of the Constitution English language has to be continued to be used for all official purposes of the Union for which it was being used immediately before such commencement. Under sub-Article (3), it is open to the Parliament by law to provide for the use of English language even after the said period of 15 years. Under Article 345, the Legislature of a State is empowered to adopt any one or more of the languages in use in the State or Hindi as the language or languages to be used for all or any of the official purposes of that State, provided that until the Legislature of the State otherwise provides by law the English language must continue to be used for those official purposes within the State for which it was being used immediately before the commencement of this Constitution. It is not disputed that immediately before the commencement of this Constitution English was being used by the Courts subordinate to the High Court and also by the Magistrates in discharging their judicial and quasi-judicial functions. Clause (c) of section 4 of Punjab Act No. 28 of 1960 covers not only Courts subordinate to the High Court but also Courts which apparently, without being subordinate to it, are within its jurisdiction; in other words, it seems to contemplate a Court which may not fall within the purview of the Punjab Courts Act, the Code of Civil Procedure and the Code of Criminal Procedure but may nevertheless be a Court within the contemplation of this clause, being within the territorial limits of this Court's jurisdiction. That the word. "Jurisdiction" in this clause speaks of territorial jurisdiction seems to gather support from the fact that the aspect of subordination is covered by the first part of this clause Under Rule 42 of the Gram Panchayat

Election Rules of 1960 (hereinafter called the Rules), an election petition under section 8 of the Punjab Gram Panchayat Act (hereinafter called the Act) has to be preferred to the Ilaqa Magistrate within whose jurisdiction the Sabha area is situated and it is this Ilaqa Magistrate who constitutes the prescribed authority in this behalf. The question arises: Is the Ilaqa Magistrate a Court? Section 6 of the Code of Criminal Procedure speaks, *inter alia* of Courts of:—

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- (i) Presidency Magistrates.
- (ii) to (iv) Magistrates of the first, second and third class respectively.

It is true that this Code does not define the word "Court" and for the sake of brevity the terms "Court" and "Magistrate" are generally, if not always, used as convertible or synonymous terms. The Magistrates are, however, also executive or administrative officers and Ilaqa Magistrate might well connote an executive officer. Our attention has not been drawn to any definition of the word "Court" during the course of arguments. Section 3 of the Indian Evidence Act defines the word "Court" as including all Judges and Magistrates and all persons except arbitrators, legally authorised to take evidence, but this definition is apparently intended for the purposes of that Act alone. The term "Court" ordinarily means, among other meanings, the Sovereign's palace or the King's mansion but it seems to have since acquired the meaning of the place where justice is judicially administered. It has further come to mean the persons who exercise judicial functions under the authority derived either immediately or immediately from the Sovereign: see Halsbury's Laws of England Volume 9 (Third Edition) p. 342. To speak of it as merely a place or persons may, however, be an incomplete definition and it may more aptly be described as a Tribunal established to administer justice or exercising judicial power, though the precise meaning of this term in any particular connection must vary with the context in which it is employed. It thus follows that the word "Court" is not a term of art with a fixed meaning but has a variable import indicative of divergent things. A Tribunal officially assembled under authority of law at an appropriate time and place for administering justice through which the State enforces its sovereign rights and powers may appropriately

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be called a Court. Its jurisdiction and function would necessarily appear to be more important than its title or name. As to in what sense this word has been used in section 4(c) of Punjab Act, 28 of 1960 will be considered a little later. I may first turn to the expression "Ilaqa Magistrate". Reverting to the Code of Criminal Procedure, section 6 of which classifies Courts for trying criminal offences, it is obvious that mere "Magistrate" or "Ilaqa Magistrate", does not fall strictly within that classification. It is, however, possible that the functions which the Ilaqa Magistrate is called upon to perform in a given case may appropriately clothed him with the attributes of a Court, though not so named.

Let us now advert to the functions of the Ilaqa Magistrate or the prescribed authority as he is called while trying an election petition. An election petition presented under section 13(D) of the Act containing, *inter alia*, a concise statement of material facts has to be signed and verified in the manner laid down in the Code of Civil Procedure for the verification of pleadings; it is, as provided in section 13(G), to be tried, as nearly as may be, in accordance with the procedure applicable to the trial of suits under Civil Procedure Code, of course, subject to the provisions of the Act and the Rules. Rule 43 shows that the election petition resembles a plaint in a civil suit in all vital aspects. The provisions of the Indian Evidence Act are also deemed to apply in all respects to the trial of election petitions. All the powers vesting in a Court under the Code of Civil Procedure when trying a suit in respect of discovery and inspection, enforcing the attendance of witnesses, compelling production of documents, examining witnesses on oath, granting adjournments, receiving evidence taken on affidavit and issuing commissions for the examination of witnesses also vest in the prescribed authority and further it is also deemed to be a civil Court within the meaning of sections 480 and 482, Criminal Procedure Code. Section 13(H) permits appearance and acts before the prescribed authority through pleaders duly appointed, and section 13(P) provides for abatement of the election petition in certain contingencies. The Authority has to record in its decision findings on the points in issue and also to fix the amount of costs payable by respective parties. The proceedings before and the decisions by the prescribed authority are completely

governed by law and there seems to be no place for administrative discretion or policy in the discharge of these functions. An order for costs passed in the trial of an election petition is executable by the principle civil Court as if it were a money decree passed by it, subject to certain conditions to which it is unnecessary to refer. Under Rule 46, the place of enquiry into or what may be called trial of an election petition is open to the public a well-recognised characteristic of a Court in our jurisprudence. One other aspect may also in fairness be noted; and that is that under section 13(F) the Deputy Commissioner of the district concerned is empowered to withdraw any election petition from one prescribed authority and transfer it to another within his district: this provision does point out the control exercised by the Chief administrative or executive officer of the district over the prescribed authority, suggesting to some extent its inclusion in the category of subordinate administrative Tribunals. But in spite of section 13(F) it seems to be fairly clear that the prescribed authority has most of the trappings of a Court and its decision is truly judicial, with the result that it is essentially a judicial Tribunal, called upon to decide the controversy before it affecting the rights of the parties arrayed on opposite sides in accordance with law and judicial principles, exercising jurisdiction by reason of sanction of law, though it may not be one of the civil Courts constituted under the Punjab Courts Act or a criminal Court under the Code of Criminal Procedure and may also not be a Court subordinate to the High Court. That this authority exercises judicial power while trying an election petition appears to be almost an irresistible inference:

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The question now arises: what does the word "Court" as used in section 4(c) of Punjab Act 28 of 1960 mean? Indisputably, the meaning of the word "Court", as discussed above, varies with the context in which it is used. In the absence of restricted definition of the word "Court" and in its wider and popular sense, the prescribed authority would seem to be a Court. Has this word been used in a restricted sense in section 4(c) above? No precedent has been cited nor has any convincing argument been put forth in support of its restricted meaning or scope. This Act has been enacted for declaring the official language of the State of Punjab. Section 3(1) of this Act generally provides for the official language for all purposes in the

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districts of the State except such purposes as are excluded by the Constitution and in respect of such matters as may be specified by the State Government. Section 3(2) expressly provides for official communications on the administrative side. Section 4(c) expressly excludes the Courts from the operation of section 3 and it speaks of Courts which are subordinate to the High Court and also of Courts which are merely within the jurisdiction of the High Court. What is the purpose behind this exclusion of Courts from the operation of section 3?

This enquiry takes me to the preamble of our constitution which has accorded first place to justice embracing social, economic and political activities of the citizens. Consistently with this priority, we find that in Part IV of the Constitution which contains the Directive principles of State Policy, the very first direction expects the State to ~~to~~ strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which Justice as enshrined in the Preamble should inform all the institutions of the national life. Now Article 348 of the Constitution in clear terms enjoins, until Parliament by law otherwise provides, that:—

- (a) All proceedings in the Supreme Court and in every High Court.
- (b) the authoritative texts—
 - (i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State;
 - (ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor or Rajpramukh of a State; and
 - (iii) of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the Legislature of a State;

shall be in the English language.

Clauses (2) and (3) of this Article of course provide for some exceptions but they are not relevant for our purpose. Art. 349 provides special procedure for enacting laws relating to language falling within Art. 348(1) in that no such legislative measure can be introduced or moved in either House of Parliament without the previous sanction of the President, who in turn is enjoined not to give his sanction without first taking into consideration the recommendations of the Commission constituted under Art. 344(1) and the report of the Committee constituted under Art. 344(4). These provisions sufficiently demonstrate the importance which our Constitution gives to the English language in so far as its use in the governmental activities relating to legislation and administration of justice is concerned. This, as I view it, has not been done without an object and a purpose. The common political philosophy, on which our nationalist movement during the British rule was in large measure founded, had in no mean degree been inspired and stimulated by the study of British history and Constitution, in which process English language played a distinctively prominent part. The Rule of law which forms the basic pillar of our constitutional set-up and without which the various guaranteed freedoms of the individual, and the impartiality and independence of the judicial wing of the Government would be mere sham has been principally drawn from the British and the American judicial traditions. Use of English language in effectively and fruitfully searching and utilising the British (including the Dominions) and the American judicial literature for proper and healthy development and growth of the Rule of law and of our judicial institutions, appears to me, at the present moment of time, to be indispensable. To prohibit the use of English language in the Supreme Court, the High Courts and the Legislatures must seriously weaken the forces of the Rule of law which is bound in turn to impair the quality of our administration of justice at the present stage of the development of Indian languages. It is presumably for this, among other reasons, that our Constitution makers in their wisdom appear to have provided constitutional safeguards for the use of English language in the administration of justice and the enactment of laws. The law-maker in this State also in enacting Punjab Act 28 of 1960 appears to me not to have been unmindful of this vital aspect and has, for aught I know, designedly refrained from tampering with the

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prevailing language of the Courts of law and justice. My, and if I may say so, this Court's initial and instinctive faith in the collective sense of patriotism, loyalty to the Constitution, democratic respect for the Rule of law and genuine and anxious desire not to impair the quality of justice in this Republic, cautions me against readily imputing to the Legislature an intention to deprive the Courts and judicial Tribunals of the beneficial and fruitful assistance which the judicial precedents and literature from Britain, America and the Dominions render. Needless to point out, that by banishing and outlawing the English language from the Courts and judicial Tribunals, this fertile and instructive source and, if I may say so, fountain-head of knowledge on the subject of Rule of law, most essential, and perhaps indispensable, to the development of our judicial traditions at the present crucial stage, would, to the regret of all democratic minds, be denied to our judicial institutions. If and when Hindi and Punjabi languages have sufficiently developed and the statutes and judicial precedents—both Indian and of other democratic countries having their roots in the Rule of law are made easily available in these languages, the question of excluding the use of English language from the Courts and Tribunals administering justice may with less risk to the quality of our judicial set-up be considered, but to exclude its use today appears to be fraught with grave danger to the healthy growth of Rule of law, one of the most prominent and strongest fabrics of our constitutional texture. The foregoing discussion leaves in my mind little doubt that the word "Courts" has been used in section 4(c) in wide and comprehensive sense by including within its fold all the judicial Tribunals situated within the jurisdiction of the High Court. To adopt a narrower or a more restricted construction would scarcely be calculated to effectuate the purpose of leaving untouched the healthy trend of development of our judicial institutions under the Rule of law, which seems apparently to underly the enactment of section 4(c). I am, therefore, inclined, as at present advised, to hold that the prescribed authority which concerns us in this case is a Court within the contemplation of section 4(c) and this in spite of its title or name.

Here, in fairness to Shri Sachar, I may in passing refer to *Union of India v T. N. Bhasin* (5) cited by him.

(5) A.I.R. 1961 Punj. 154.

It was observed in that case that the authority under the Payment of Wages Act not being a Court subordinate to the High Court, section 115, Civil Procedure Code, or section 44, Punjab Courts Act, was not attracted, but under Article 227 of the Constitution this Court can exercise its supervisory jurisdiction. This decision is of little assistance in determining whether the prescribed authority is a Court within section 4(c) of Punjab Act 28 of 1960. I may, however, point out that there exists in decided cases a sharp conflict of opinion whether the Authority under the Payment of Wages Act constitutes a Court subordinate to the High Court for purpose of section 115 of the Code and this conflict has been noticed in this Court more than once.

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Even assuming as correct the petitioner's contention that the prescribed authority is not a Court within the meaning of section 4(c) of Punjab Act 28 of 1960, the question arises; Is the impugned order tainted with jurisdictional or such other serious legal infirmity that this Court should quash it on the writ side at the petitioner's instance? It is difficult to contend seriously, and to support with reasonably cogent argument the contention that section 3 of Punjab Act 28 of 1960 was intended to affect the jurisdiction of the prescribed authority either in respect of the subject-matter of the election petition or in respect of the parties before it. Jurisdiction would largely seem to mean the power to entertain the election petition, consider the merits of the controversy and render a binding judgment. The language in which the litigating parties are permitted to address the prescribed authority, whether orally or in writing, is a matter which is ordinarily taken to pertain to the domain of procedure and it does not seem to impair its jurisdiction or power to entertain and adjudicate upon the election petition. Jurisdiction, in my view, relates to the forum that may hear and determine the controversy and procedure to the form and manner of conducting the proceedings. By entertaining the election petition in English language, the prescribed authority cannot be considered to have acted in excess of the jurisdiction conferred on it by the statute creating it. Rules of procedure, it may be recalled, are merely a channel to administer the law and are accordingly meant to subserve and not to govern the cause of justice. In the case in hand, the

Kabul Singh petitioner had not only raised no objection to the entertainment of the election petition in English language but had himself also filed his reply or written statement in the same language. In fact, at no stage of the lengthy proceedings before the prescribed authority did the petitioner raise any objection on the score of the proceedings being held in English language, and indeed both parties voluntarily and without protest participated therein. Apparently it was only when the petitioner lost before the prescribed authority and was faced with the final order against him that he seems to have thought of levelling this challenge to the impugned order in this Court.

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Again, had the prescribed authority declined to entertain the election petition in English language, the election petitioner would perhaps have immediately rectified the mistake and filed an election petition in the official language. As has often been said, it is the highest duty of the Court to take care that its act does no injury to any suitor, and this, in my opinion, would equally apply to all judicial Tribunals. In these circumstances, should this Court permit the petitioner to challenge the impugned order on this ground on the writ side? And, has the impugned order caused manifest injustice which this Court should in its judicial discretion set right? After deep reflection, in my opinion, on both points, the decision should be recorded against the petitioner. The error if error it be not being jurisdictional, having caused no failure of justice and the petitioner being no less blameworthy, I am unable to persuade myself to the view that interference at this stage on the facts disclosed would facilitate justice or further its ends. Accordingly neither the petitioner's conduct nor the true dictates of substantial justice require that this Court should interfere with the impugned order. In view of the above discussion and for all the foregoing reasons, this writ petition fails and is hereby dismissed, but with no order as to costs.

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Before A. N. Grover and Inder Dev Dua, JJ.

BHAGIRATH SINGH, —Petitioner.

versus

THE STATE OF PUNJAB AND OTHERS, —Respondents.

Civil Writ No. 1233 of 1964.

Constitution of India (1950) — Art. 226 — Nature of jurisdiction

under — Alternative remedy — Whether bar to granting relief under

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