effective date. As a necessary consequence, unfortunately, some of the reserved candidates have to be reverted.

(34) For these reasons, we are of the opinion that there is no merit in both the writ petitions and are accordingly dismissed with no order as to costs.

R.N.R.

Before Jawahar Lal Gupta & R.C. Kathuria, JJ

JHARMAL,—*Petitioner*

versus

THE STATE OF HARYANA & OTHERS,—*Respondents*

C.W.P. No. 6335 of 2000

8th March, 2001

Haryana Panchayati Raj Act, 1994—S.175(1)(q)—Constitution of India, 1950—Arts.14 & 226—Election to the post of Sarpanch—S.175(1)(q) provides that a person having more than two living children not eligible to hold the office of Sarpanch—Whether violates Art.14 of the Constitution—Held, no.

Held, that a perusal of Section 175 (1)(q) of the 1994 Act shows that a person who has more than two living children (the provision has been amended in 1995 to say more than two children) is not qualified to hold the office of village Sarpanch. The provision does not debar the petitioner from having children. It does not affect his freedom of religion. It only provides that a person like the petitioner shall be disqualified from holding the office of Sarpanch. The purpose is to send a message to the people at the grass-root level. Persons who opt to lead people in villages must set a personal example. To achieve this objective, the Legislature has provided that a person having more than two living children shall not be eligible to hold the office of Sarpanch. The impugned provision does not suffer from any legal infirmity.

(Paras 6 & 8)

Satish Chaudhary, Advocate—*for the Petitioner*

Palika Monga, A.A.G. Haryana--*for the Respondent.*

JUDGMENT

JAWAHAR LAL GUPTA, J (O)

(1) Is the provision contained in Section 175(1)(q) which provides that a person having more than two living children shall not be qualified to be the village Sarpanch invalid? This is the short question that arises in this bunch of four petitions. The counsel have referred to the facts as averred in CWP No. 6335 of 2000. These may be briefly noticed.

(2) The petitioner was elected as Sarpanch in March, 2000. Apprehending that he was not qualified to hold the office in view of the provision of Section 175(1)(q) of the Haryana Panchayati Raj Act, 1994, he has approached this Court through the present petition. He prays that the provision be declared *ultra vires* the Constitution. While this matter was pending, the petitioner's case was examined by the respondent authorities. *Vide* order dated 8th January, 2001, it was held that the petitioner has 9 children. Therefore, in view of the provision of Section 175(1)(q), he was disqualified to held the post of Sarpanch. The order was conveyed to the petitioner. He has not chosen to amend the petition to challenge this order. However, the petitioner maintains that the provision being unconstitutional, the impugned order is untenable.

(3) The claim made on behalf of the petitioner has been controverted by the respondents. A written statement has been filed. The petitioner's claim that the provision offends Article 14 of the Constitution has been repudiated.

(4) Counsel for the parties have been heard.

(5) The short question that arises is—Whether Section 175(1)(q) offends Article 14?

The provision provides as under :—

175. "Disqualification - (1) person shall be a Sarpanch or a Panch of a Gram Panchayat or a member of a Panchayat Samiti or Zila Parishad or continue as such who—

(a) to (p) xx xx xx xx

(q) has more than two living children :

Provided that a person having more than two children on or up to the expiry of one year of the commencement of this Act, shall not be deemed to be disqualified";

(6) A perusal of the above provision shows that a person who has more than two living children (the provision has been amended in 1995 to say more than two children) is not qualified to hold the office of village Sarpanch. This provision has apparently been made in view of the crisis of numbers that this country faces. It is one of the small measures which has been taken by the Legislature to discourage people from having large families.

(7) Mr. Chaudhary contends that the religious tenets governing the petitioner permit him to have four wives. There is no embargo on the number of children. Thus, the offending legislation is against religion and, thus, invalid.

(8) We are unable to accept this contention. The provision does not debar the petitioner from having children. It does not affect his freedom of religion. It only provides that a person like the petitioner shall be disqualified from holding the office of Sarpanch. The purpose is to send a message to the people at the grass-root level. Persons who opt to lead people in villages must set a personal example. To achieve this objective, the Legislature has provided that a person having more than two living children shall not be eligible to hold the office of Sarpanch.

(9) Mr. Chaudhary submits that such an embargo has not been placed on other elected offices like those of the Members of Parliament and Legislative Assemblies. Thus, the provision violates Article 14. We are unable to accept the contention.

(10) An omission to make a similar provision in other cases cannot *ipso facto* result in the provision becoming unconstitutional. It may be advisable for the Parliament and the State Legislatures to enact laws imposing similar restrictions even in respcet of various other offices. However, till such time as a similar provision is made, it cannot be said that section 175(1)(q) is unconstitutional.

(11) The growing numbers pose a national problem. From about 300 million at the time of independence, we have already crossed the one 'billion' barrier. There is no tangible reason for optimism in sight. For the poor in the country, procreation appears to be the only recreation. Thus, the growth continues. The numbers continue to multiply. A check

is a national imperative. The impugned provision is a small step. The purpose is laudable. The example is worth amulation. It suffers from no legal infirmity.

(12) In view of the above, we find no merit in these petitions. These are, consequently, dismissed. The provision and the order are held to be legal and valid. Under the circumstances, the parties are left to bear their own costs.

R.N.R.

Before Mehtab Singh Gill, J

LAKHWINDER SINGH & OTHERS,—*Petitioners*

versus

THE STATE OF PUNJAB & OTHERS,—*Respondent*

C.W.P. No. 734 *of* 2000

20th March, 2001

Punjab Co-operative Societies Act, 1961—S.27—Assistant Registrar issuing notice to the President for removal of the Managing Committee of the Society—No explanation sought from the members as required under the provisions of the Act—Suspension of the Managing Committee on the basis of a report of the Inspector without an independent opinion—Assistant Registrar giving no reply to the allegations of mala fides—Action of the Assistant Registrar not fair and held liable to pay compensation for harassment to the petitioners personally—Writ allowed while quashing the impugned notice and the order placing the Managing Committee of the Society under suspension.

Held, that a show cause notice had been sent to Shri Ashok Kumar, President and is not addressed to any member of the Managing Committee but in the concluding para, he has been directed to file the reply to the show cause notice within 15 days, otherwise Managing Committee of the Society will be removed. The Inspector, Co-operative Societies, Kakkar has sent his comments on the reply of the President to the show cause notice. The Assistant Registrar, Co-operative Societies, Ajnala placed the entire Managing Committee under suspension,—