



IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN,  
JAIPUR BENCH, JAIPUR.

JUDGMENT

Gajanand Vs. State of Rajasthan & Others  
(S. B. Civil Writ Petition No.911/2010)

S. B. Civil Writ Petition under Article 226 of the  
Constitution of India.

Date of Judgment:

January 27<sup>th</sup>, 2010

PRESENT

Hon'ble Mr. Justice R. S. Chauhan

Mr. Dharamveer Tholia, for the petitioner.



The petitioner has approached this court seeking relaxation of notification dated November 27, 1995, as well as of Section 19 (L) of the Rajasthan Panchayati Raj Act, 1994 (for short 'the Act').

2. In a nutshell, the facts of the case are that the petitioner's wife had undergone sterilization operation on November 25, 2001. However, despite the said operation of sterilization, petitioner's wife still delivered a child. Therefore, after the cut off date, the petitioner has more than two children. According to the petitioner, this is not his fault that sterilization operation had failed and his wife conceived.



Therefore, according to the petitioner, the birth of third child should not be treated as disqualification of petitioner under section 19 (L) of the Act.

3. Heard learned counsel for the petitioner, considered the material available on record, and considered the case law cited at the



4. Section 19 (L) of the Act reads as under:-

Qualifications for election as a Panch or a member-  
Every person registered as a voter in the list of voters of a Panchayati Raj Institution shall be qualified for election as Panch or, as the case may be, a member of such Panchayati Raj Institution unless such person-

(L) has more than two children

5. Proviso 4 attached to Section 19 (L) of the Act reads as under:-

(iv) the birth during the period from the date of commencement of the Act, hereinafter in this proviso referred to as the date of such commencement, to 27<sup>th</sup> November, 1995, of an additional child shall not be taken into consideration for the purpose of the disqualification mentioned in clause (1) and a person having more than two children (excluding the child if any, born during the period from the date of such commencement to 27<sup>th</sup> November, 1995) shall not be disqualified under the clause for so long



as the number of children he had on the date of commencement of this Act does not increase;

6. A perusal of the provisions clear reveal that there is no exception made by the law for a child born after the cut off date. Therefore, even if, the child is born due to failure of sterilization operation, the law does not prescribe that the birth of such a child would not disqualify a person from contesting the election.

Considering the object and scope of the law, it is not for this court to direct that birth of a third child should not be treated as disqualification of the petitioner. For, a court of law can not amend the law



7. In this view of the matter, this writ petition is devoid of any merit. It is, hereby, dismissed.

( R.S. CHAUHAN ) J.

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