

Case Commentary - ABHIRAM SINGH VERSUS C.D. COMMACHEN (DEAD) BY LRS. & ORS

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1) ABSTRACT

The true essence of democracy is when the representatives are elected by people. The Representation of Peoples act 1951 gives us guidelines about, qualification of voters, preparation of electoral rolls, delimitation of constituencies,

allocation of seats in the parliament, etc. The interpretation of Section 123(3) of the act, which gives about corrupt practices was questioned in the case of Abhiram Singh v. C.D Commachen by LRS. And others. The question in this case was if the “his” used in the section was questioned if it applies only to the candidates or the voter as well. This case is known as the electoral appeals case. This is an important case law with respect to competitive exams. Though not a very relevant case for our day-to-day legal practice, it still is an important case to have its knowledge. This paper is aimed at to examine the Supreme Court’s order in the case of Abhiram Singh v. C.D Commachen by LRS. And others.

Keywords- The representation of peoples act 1951, electoral appeals case, corrupt practices, supreme court.

CASE TITLE	ABHIRAM SINGH VERSUS C.D. COMMACHEN (DEAD) BY LRS. & ORS.
CASE NUMBER	CIVIL APPEAL NO. 37 OF 1992
DATE OF ORDER	02/01/2017
JURISDICTION	High court of Bombay ; Appealed to Supreme Court.
QUORUM	Hon'ble Mr. Justice Uday Umesh Lalit Hon'ble Mr. Justice Madan B. Lokur, Hon'ble Mr. Justice L.Nageswara Rao, Hon'ble Mr. Justice S.A. Bobde, Hon'ble Dr.Justice D.Y.Chandrachud, Hon'ble Mr. Justice Adarsh Kumar Goel, Hon'ble Mr. Justice Uday Umesh Lalit
APPELLANT	ABHIRAM SINGH
RESPONDANT	C.D. COMMACHEN (DEAD) BY LRS. & ORS.
COUNSEL FOR APPELLANT	Ms. Neela Gokhale, Adv. Mr. Devanshu Sharma, Adv. Ms. K.S. Mehlwal, Adv. Ms. Bina Gupta, Adv. Mrs. Shiraz Contractor Patodia, Adv.

COUNSEL FOR RESPONDENT	Mr. Shuvodeep Roy, Adv. Mr. Tushar Mehta, ASG Mr. Arjun Garg, aDv. Mr. Manish Yadav, Adv. Mr. Purushaindra Kaurav, Adv. Mr. Ishan Nagar, Adv. Mr. Atul Jha, Adv. Mr. Sandeep Jha, Adv. Mr. Dharmendra Kumar Sinha, Adv. Mr. A.M.S. Nadkarni, ASG Mr. N.R.Katneshwarkar, Adv. Ms. Arpit Rai, Adv. Mr. Santosh Rebello, Adv. Ms.Hemantika Wahi, Adv. Ms. Puja Singh, Adv. Ms. Swarupama Chaturvedi, Adv. Mr. B.N. Dubey, Adv. Mr. Vijay Kumar, Adv. Mr. Vishwajit Singh, Adv. Mr. Ejaz Maqbool, Adv. Mr. Chirag M. Shroff, Adv. Mr. Shuvodeep Roy, Adv. Mr. Merusagar Samantaray, Adv. Ms. Aparna Bhat, Adv. Ms. Archana Pathak Dave, Adv. Mr. Prakash Kumar Singh, Adv. Mr. Rameshwar Prasad Goyal, Adv. Mr. P. V. Dinesh, Adv. Mr. Nachiketa Joshi, Adv.
ACTS AND SECTION INVOLVED	Section 123(3) of the Representation of the People Act, 1951

2) FACTS OF THE CASE-

- a) The appellant was found to ask for vote saying, “you are a Hindu, vote for a Hindu.” On the other hand, “don’t vote for my opposition party because he is a Muslim.” According to section 123(3) of the Representation of the People Act, 1951. Candidates are prohibited to advertise their own religion. However, the appellant argued that he did not mention his own religion but only mentioned the voter. This led to the question if the section was applicable to only the candidates or the voter as well.
- b) The respondent successfully challenged the election of the appellant. He was challenged on the basis that the appellant received votes based on religious background. The appellant was found to have campaigned, as he was Hindu and asked for votes as the voter is a hindu. The respondent challenged this as it was against section 123(3) of the Representation of the People Act, 1951. Which

says “The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of **his** religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.”

3) ISSUE AT HAND-

- a) The question that arise here was if the word “ his” should be interpreted as only the candidate or does it interpret to both candidate and voter.

4) ARGUMENTS OF THE APPELLANT-

- a) The appellant argued that the word “his” only referred to the candidates and the statement of the appellant asking for vote on the basis of the voters religion does not violate the section 123(3) of the Representation of the People Act, 1951.

5) ARGUMENTS OF THE RESPONDENT-

a) The respondent argued that the ambit of section 123(3) extends to both the candidates and the voters. They also argued that the statement made by the appellant asking for votes based on religion of the voter also violated the section 123(3) of the Representation of the People Act, 1951.

b) The question raised here was if the candidates are not allowed to refer to the religious background of the voter.

6) SUMMARY OF THE CASE-

a) The appellant stood for the election campaigned asking for votes by stating “ you are a Hindu, Please vote for me.” Or “ don’t vote for my opponent he is a Muslim.”

7) ORDER OF THE COURT-

a) The judgment was said to be a complicated matter and it was referred to a 7 judge bench. It was also tagged along with the case of Narayan Singh v. Sunderlal Patwa. Due to similarities in the issue.

b) The judgment was decided at a 4:3 ratio.

c) Where 4 judges said “His” includes both the candidate and the voter. It was said that the candidates should not campaign based on his religion and also based on the religion of the voter. The said that it is all about purposive reading and “ all actors involved in the said proceedings.”

d) The 3 judges who disagreed among them Justice Chandrachud said “This will reduce democracy to an absolution.” They collectively stated that the section was applicable to the candidate only and not the voters.

e) The judgement followed the legal maxim of noscitur a sociis which is a doctrine or rule of construction where the meaning of an unclear or ambiguous word should be determined by considering the words with which it is associated in the context.

8) CONCLUSION-

India is a secular, democratic country and voting or asking for votes on the basis of religion is to turn the time clock behind. This not only encourages difference in political interests but it also is one of the major reasons for the religious disturbance in society. We know that a candidate is not allowed to advertise his religion, sex, race, caste etc in order to gain votes. On the other hand this judgement upheld the fact that the candidate should not address the voters his religion, sex, race, caste etc in order to gain votes also.

RELATED CASES-

- 1) Narayan Singh v. Sunderlal Patwa
- 2) S R Bommai v. Union of India
- 3) Kanti Prasad Jayshanker Yagnik v. Purshottamdas Ranchhoddas Patel
- 4) Ramesh Yeshwant Prabhoo (Dr) v. Prabhakar Kashinath Kunte
- 5) Supreme Court Advocates on Record Association v. Union of India
- 6) Keshav Mills Company Ltd. v. Commissioner of Income Tax, Bombay North, Ahmedabad
- 7) Mohd. Aslam v. Union of India
- 8) Harmohinder Singh Pradhan v. Ranjit Singh Talwandi
- 9) Manohar Joshi v. Nitin Bhaurao Patil
- 10) Dr Ramesh Yeshwant Prabhoo v. Prabhakar Kashinath Kunte

REFERENCES-

- 1) Representation of peoples act, 1951.

- 2) Abhiram Singh v. C.D. Commachen by Lrs. And Ors
- 3) <https://indiankanoon.org/doc/85515763/>
- 4) <https://www.latestlaws.com/latest-caselaw/2017/january/2017-latest-caselaw-11-sc>
- 5) <https://www.scobserver.in/wp-content/uploads/2021/10/Abhiram-Singh-2-1-2017.pdf>
- 6) Lawsikho case law notes.