

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD  
SPECIAL CIVIL APPLICATION NO. 9358 of 2015

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PRAFUL KHANDUBHAI DESAI....Petitioner(s)  
Versus  
CHIEF ELECTION COMMISSIONER & 1....Respondent(s)

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Appearance:  
PARTY-IN-PERSON, PERSONAL CAPACITY for the Petitioner(s)  
No. 1

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CORAM: HONOURABLE MR.JUSTICE JAYANT PATEL  
and  
HONOURABLE MR.JUSTICE RAJESH H.SHUKLA

Date : 29/06/2015

ORAL ORDER  
(PER : HONOURABLE MR.JUSTICE JAYANT PATEL)

1. Additional affidavit dated 26.06.2015 is taken on record.
2. The petitioner by this petition is seeking appropriate writ to quash and set aside the decision of the State Election Commission to fix the fees of Rs.15,000/- for registration and it is prayed by the petitioner that no fees should be charged by the State Election Commission for registration of any political party.
3. We have heard Mr. Desai, party-in-person, for the petitioner.
4. As stated by the petitioner in the petition, the petitioner is seeking registration of Jagte Raho party with the State Election Commission of Gujarat for contemplating to contest election of

local bodies in the State.

5. The contention raised on behalf of the petitioner is twofold; one is that it is already registered with the Election Commission of India and the Election Commission of India has provided fees of Rs.10,000/- for registration. Whereas the State Election Commission in any case could not fix the amount of Rs.15,000/- for the purpose of registration. Second contention is that the petitioner was already registered with the Election Commission of India vide Registration dated 24.11.2011 and therefore, once it was registered with the Election Commission of India, subsequent fixation of fees by State Election Commission vide order dated 19.11.2011, which has come into effect from 01.04.2012, cannot be made applicable. It was submitted that on this premise, the registration ought to have been granted to the petitioner by the State Election Commission without payment of any fees for registration.
6. Mr. Desai also contended that as such, for registration fees, it should be a token amount even if fees is to be charged and it cannot be exorbitant as that of Rs.15,000/-. If the power of the State Election Commission is not controlled by making it reasonable, the Election Commission tomorrow may charge any amount, may be Rs.50,000/- or Rs.1,00,000/- and therefore, this Court may interfere.

7. We may first consider the aspect that as per the constitutional mechanism, Election Commission of India is clothed with the duty of holding the election of MP, MLA and other elections nationwide. Whereas, the State Election Commission is to hold the elections of local bodies and other panchayats as per the amendment made in the Constitution. Under these circumstances, it can be said that the registration of the political party for a nationwide election and registration of political party for statewide election may stand on different footing and the functioning of the State Election Commission would be for the purpose of election of local bodies as independent.
8. It is an undisputed position that the petitioner is registered with the Election Commission of India as stated by the petitioner. But the contention that once it is registered with the Election Commission of India, it is not required to be registered with the State Election Commission cannot be accepted because as per the order dated 19.11.2011, all political parties registered with the Election Commission of India are also required to be registered with the State Election Commission after following the necessary procedure and on payment of prescribed fees.
9. The attempt to contend that the order of the State Election Commission has come into effect

from 01.04.2012 and prior thereto, the petitioner was already registered on 24.11.2011 and therefore, not covered by the notification nor any fees can be charged from the petitioner in our view cannot be countenanced for the simple reason that the registration with the State Election Commission is altogether a different aspect than the registration with the Election Commission of India since both operate in their different fields and different duties to be discharged independently.

10. The contention raised that the fees is exorbitant or it should meet with the test of reasonableness, if examined, we do not see that if the State Election Commission has provided additional Rs.5,000/- more for the registration in comparison to the Election Commission of India, such would be rendered arbitrary. In normal circumstances, it is true that any fees is prescribed, the principles of quid pro quo of the services to be rendered is required considered. If any political party is registered, the Election Commission may be required to undertake the expenses for inclusion in the ballot and other incidental expenses. The additional fees of Rs.5,000/- in our view cannot be said as exorbitant keeping in view the cost structure prevailing even that of stationary, printing, salary, etc. Hence, we are not inclined to interfere with the fees provided by the State Election Commission of Rs.15,000/- which is

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Rs.5,000/- more in comparison to the fees prescribed by the Election Commission of India.

11. In view of the above, no case is made out for interference. Hence, the petition is dismissed.

(JAYANT PATEL, J.)

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(RAJESH H. SHUKLA, J.)