



Reportable

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

D.B. Civil Writ Petition No. 21823/2026

CNR: RJHC010909772026 | URN: CW / 37494U / 2026

Judgment reserved on: 09.09.2026

Judgment delivered on: 05.10.2026

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Budh Dan S/o Sh Seni Dan, Aged About 71 Years, R/o Mehra
Joto Ka Bas, Mathaniya, District Jodhpur, Rajasthan - 342305

-----Petitioner

Versus

1. State Of Rajasthan, Through The Principal Secretary,
Department Of Local Self Government, Secretariat, Jaipur,
Rajasthan.
2. State Election Commissioner, State Election Commission,
2nd Floor, Development Block, Secretariat, Jaipur -
302005.
3. District Election Commissioner, District Jodhpur, Rajasthan
4. Returning Officer, Mathania Nagar Palika, District Jodhpur,
Rajasthan

-----Respondents

For Petitioner	:	Mr. Aman Maheshwari, Adv. Ms. Akansha Mehta, Adv. Mr. Pulkit Sharma, Adv.
For Respondent(s)	:	Mr. Rajesh Panwar, Sr. Advocate and AAG assisted by Mr. Ayush Gehlot, Adv. Mr. Rakesh Sharma, Adv. Mr. Ravindra Jala for Mr. S.S. Ladrecha, AAG

Division Bench

HON'BLE THE CHIEF JUSTICE MR. SANJAY K. AGRAWAL
HON'BLE MR. JUSTICE MUNNURI LAXMAN



Sanjay K. Agrawal, CJ:

For sake of exposition, this judgment is divided in following parts:-

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Preface

1. The preliminary object and purpose underlying Section 24(iii) of the Rajasthan Municipalities Act, 2009 (hereinafter referred to as the 'Act of 2009'), is to disqualify a candidate from contesting municipal election, if he is under trial before competent court, which has taken cognizance for the offence and framed the charges against him of any offence punishable



with imprisonment for five years or more. This legislative mandate and measure is to prevent the criminalization of politics and public administration. The Act has been enacted by the Rajasthan Legislature to rectify systemic failures that threaten state governance. This provision ensures that public institutions are not dominated or controlled by the individuals having criminal backgrounds. By establishing these essential safeguards, the statute preserves public confidence, upholds the rule of law and constitutional values and so also protect the public offices from criminal influence. Ultimately, this provision serves the paramount public interest for maintaining clean, accountable, and effective administration while securing the democratic foundation of both the State and the country against institutional collapse. With this preface, we would turn to the facts of the case.

Quintessential facts and challenge in this petition

2. Invoking extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India, the petitioner while challenging the constitutional validity of Section 24(iii) of the Act of 2009, has sought consequential relief in relation to submission of nomination paper for election, as a Member of Ward No.6, Nagar Palika Mathania, District Jodhpur.
3. The election programme for the said municipal election was notified on 19.08.2026 and the process of election commenced. The petitioner submitted his nomination paper for contesting election from Ward No.6, Nagar Palika Mathania, District Jodhpur on 31.08.2026. Upon scrutiny, the



nomination paper of the petitioner was rejected. Thereafter, the petitioner approached this Court on the premise that his nomination paper was rejected on account of disqualification as contemplated under Section 24(iii) as he is facing criminal trial, of which the cognizance has been taken and charges have been framed for the offence under Sections 13(1)(c) and 13(2) of the Prevention of Corruption Act, 1988 read with Sections 420 and 120B of the Indian Penal Code on 14.06.2024.

4. The endorsement recorded on the nomination paper specifically records that the requisite Form-क and Form-ख issued in favour of the petitioner were not enclosed and consequently his nomination paper was rejected under Rule 13(1)(4) read with Rule 12(2) of the Rajasthan Municipalities (Election) Rules, 1994 (hereinafter referred to as the 'Rules of 1994'). It has been stated at the Bar that from the same Ward No.6, Shri Sanjay Pariyar submitted his nomination paper as a candidate of a political party accompanied by requisite Form-क and Form-ख duly bearing the requisite party authorization/seal/signature and the petitioner, on the other hand, did not possess or submit such authorization, which led to rejection of his nomination paper.
5. The petitioner has filed this writ petition basically on the ground that Section 24(iii) of the Act of 2009 creates an arbitrary and discriminatory classification between accused person and convicted person. Section 24(i) operates against a person, whose criminal culpability has culminated into the



final judicial determination upon a conviction by a competent court and sentenced to imprisonment for six months or more, and the legislature has nevertheless consciously circumscribed the continuance of such disqualification under proviso (a) that the same shall cease upon expiry of six years from the date of release of such convicted person from imprisonment, and in contradiction, Section 24(iii) visits a person with the drastic consequence of electoral disqualification at a purely pre-conviction and un-adjudicated stage, merely upon taking cognizance and framing of charge in respect of an offence punishable with imprisonment for five years and more, notwithstanding that such person has neither been found guilty nor subjected to any final judicial determination of criminal culpability and continues to face trial with the ultimate outcome thereof remaining in-determinative. It has further been sought to be challenged on the ground that the impugned disqualification provided under Section 24(iii) is contrary to legislative scheme governing electoral disqualifications and principle as contained under Section 8(3) of the Representation of the People Act, 1951 (hereinafter referred to as the 'Act of 1951'). It is further sought to be challenged on the ground that Section 24(iii) of Act of 2009 is manifestly arbitrary, self discriminatory and violative of Article 14 and 21 of the Constitution of India. It has also been sought to be challenged on the ground that the impugned Section 24(iii) imposes disproportionate and arbitrary disqualification upon elected representative of the Local Self Government. As



such the Section 24(iii) disqualifying a person on the ground that he is under trial before a competent court, which has taken cognizance for the offence and framed the charges against him for offence punishable with imprisonment for five years or more be declared unconstitutional, *ultra vires* and violative of Article 14 and 21 of the Constitution of India and consequently be struck down and consequently rejection of his nomination paper for election as Member from Ward No.6, Nagar Palika Mathania, District Jodhpur also be set aside and the petitioner may be permitted to contest the election from the said ward without giving effect to the disqualification contemplated under Section 24(iii) of the Act of 2009.

Submission on behalf of the petitioner

6. Mr. Aman Maheshwari, learned counsel for the petitioner has submitted that the provisions of Section 24(iii) of the Act of the 2009 is arbitrary and discriminatory in nature as it has created classification between the accused person and convicted person. Since Section 24(i) of the Act of 2009 deals with a person who has already been declared guilty and handed down sentence for six months or more, whereas Section 24(iii) deals with a person who is facing trial for an offence punishable with imprisonment for five years or more. Learned counsel appearing on behalf of the petitioner has, thus, argued that such legislative treatment results in the anomalous consequence of an under-trial accused being placed, for the purposes of electoral eligibility, in a more onerous and disadvantageous position than a person whose



guilt has already been judicially established. It has also been argued that the disqualification as provided under Section 24(iii) of the Act of 2009 is contrary to the legislative scheme governing electoral disqualification and the principle underlying the Representation of the People Act, 1951. It has further been argued that provision of Section 24(iii) of the Act of 2009 is arbitrary, self-discriminatory and violative of Article 14 and 21 of the Constitution of India.

Submission on behalf of respondents

7. Mr. Rajash Panwar, learned Senior Advocate/Additional Advocate General appearing for the State has submitted that the endorsement recorded on the nomination paper specifically records that the requisite Form-क and Form-ख issued in favour of the petitioner were not enclosed and consequently, his nomination paper was rejected under Rule 13(1)(4) read with Rule 12(2) of the Rules of 1994. The petitioner did not possess or submit authorisation in his favour. It is settled constitutional principle that an enactment, which has been enacted, enjoys a presumption of constitutionality because the legislature understands and correctly appreciates the need of its people and considering the problem enacted the law. The legislative classification and policy are constitutionally valid unless the petitioner establishes clear and manifest constitutional infirmity. In the present case, the presumption is fortified by the fact that the substantially identical statutory provision was itself subjected to constitutional scrutiny. It is further contended that there is



consequently, no warrant for reopening a legislative policy which has already received judicial approval in respect of the predecessor enactment. Section 24(iii) of the Act of 2009 merely prescribes a statutory condition of electoral eligibility. It does not either adjudicate upon the guilt or innocence of the person concerned, or does it substitute a finding of conviction for a pending criminal trial. It is prayed that the writ petition may be rejected on the aforesaid grounds.

8. We have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

Legal question involved

9. Whether Section 24(iii) of the Rules of 2009 provides for disqualification of a person, who is under-trial before the competent court, which has taken cognizance and framed charges for an offence punishable with imprisonment for five years or more is unconstitutional and violative of Article 14 and 21 of the Constitution of India?

The presumption of constitution operates in favour of the provision/rule.

10. It is well settled principle of constitutional jurisprudence that there is strong presumption in favour of the constitutionality upon legislative enactment. The Constitution Bench judgment in **Shri A.C. Aggarwal, Sub-Divisional Magistrate, Delhi vs. Mst. Ram Kali**¹ recognizes that the presumption is always in favour of the constitutionality of an enactment because the

1 AIR 1968 SC 1



legislature understands and correctly appreciates the need of its own people and the laws are premised on being directed towards pressing social and public laxities, unless a provision is shown to be manifestly arbitrary or violative of express constitutional limitations and endeavour of court must be in favour of upholding its validity. Their Lordships further held that the Courts are, therefore, required to approach a challenge to legislation with a presumption that the legislative classification and policy are constitutionally valid unless the petitioner establishes clear and manifest constitutional infirmity.

Nature of electoral rights

11. It is well established tenet of jurisprudence that the right to vote are to stand as candidate for election is neither a common law nor a fundamental right rather it is creature of statute and must remain subject to statutory limitation and eligibility requirements.
12. The Constitution Bench judgment of Hon'ble Supreme Court in **K. Prabhakaran vs. P. Jayarajan**² has held that the right to contest election is statutory right. In order to be eligible for exercising such right the person should be qualified in terms of the statute. He should also not be subject to any disqualification as may be imposed by the statute making provision for the elective office and thus, the legislature creating the office is well within its power to prescribe qualifications and disqualifications subject to which the

2 (2005) 1 SCC 754



eligibility of any candidate for contesting for or hold the office shall be determined.

Legislative history leading to the enactment of Section 26(iii) of the Rajasthan Municipalities Act of 1959.

13. The 73rd Constitutional amendment came into existence with effect from 24.04.1993. Section 24(iii) of the Act of 2009 is the replica of the Rajasthan Municipalities Act, 1959, which was repealed by the Act of 2009, in which Section 26(i)(b), as it then stood, provided the *pari materia* provision clearly stating that a person shall be disqualified being chosen are being a member of the board, who is under trial in competent court, against whom cognizance has been taken and charges have been framed of any offence punishable with imprisonment for five years or more. Chapter IXA of the Constitution of India deals with the Municipalities. Article 243V(1)(b) expressly provides that a person shall be disqualified for being chosen as, and for being, a member of a municipality, if he is so disqualified by or under any law made by the Legislature of the State. Thus, the Constitution of India itself contemplates and State legislature to prescribe qualification and disqualification governing eligibility to contest election to a municipality. Thus, Section 24(iii) merely prescribes statutory condition of electoral eligibility; it does not adjudicate upon the guilt, or the innocence of the person concerned nor does it substitute a finding of conviction for pending criminal trial. The provision operates within the constitutional field specifically reserved to State Legislature



under Article 243V of the Constitution of India. Article 243V constitutes constitutional recognition of State autonomy in matter concerning local democratic institution.

14. Constitutional validity of Section 26(i)(b) of the Act of 1959 was questioned before this Court in the matter of **Yogendra Nandwana vs. State of Rajasthan**³, wherein the direct statutory predecessor of Section 24(iii) on the grounds including Article 14, 21, the presumption of innocence, discrimination *vis-a-vis* Parliament/State Legislature and arbitrariness of the five year threshold and this Court, relying upon its earlier decision in the matter of **Shiv Ram vs. The State of Rajasthan**⁴, rejected all the challenges and recorded its respectful agreement with the reasoning laid down in the case of Shiv Ram (*supra*).
15. *Pari materia* provision in Section 19(gg) of the Rajasthan Panchayati Raj Act, 1994 states that a person against whom, the competent court has taken cognizance of the offence and framed charges against him of any offence punishable with imprisonment for five years or more is not allowed to join election, was questioned before the Division Bench of this Court in Shiv Ram (*supra*) and upheld against the challenges founded under Article 21 under presumption of innocence. The Court further held that the framing of the charge is not equivalent to real accusation as it follows the investigation and judicial application of mind.

3 2005 SCC Online Raj. 81

4 AIR 2000 Rajasthan 416



16. The principle of law laid down in Shiv Ram (supra) was further considered by Full Bench in **Narayan Lal vs. State of Rajasthan**⁵, wherein following question was framed by the Division Bench in paragraph 1 and it was answered in paragraphs 19 and 20 which reads as under:

"1. This reference has come up before us on the basis of the order dt. 3.4.2002 passed by the Division Bench in D.B. Civil Special Appeal No. 715/2001 to answer the question framed by the Division Bench as under:—

"Whether a Sarpanch elected by a valid democratic process can be ousted from the office on the ground that he was disqualified to contest the election as on the date of nomination viz; he was undergoing a trial before the competent Court which had taken cognizance of the offence and framed a charge against him of the offence punishable with imprisonment for five years or more inviting applicability of Cl. (gg) of Sec. 19 of the Rajasthan Panchayati Raj Act, 1994 inspite of the fact that on the date the Tribunal upset the election, he stood acquitted of the charges levelled against him?"

2. to 18. xxxxxxxx

19. The principles and propositions of law as have been laid down in the various decisions referred to hereinabove and the reasoning as aforesaid leads us to an irresistible conclusion that the disqualification as provided u/S. 19(gg) is a penalty of a trial against a person concerned for a cognizable offence with imprisonment for five years or more, wherein, a charge has been framed and, therefore, the result of the trial in such cases is irrelevant.

20. The disqualification does not refer to conviction but refers to the pendency of trial. The factum of the pendency of trial for a cognizable offence punishable with imprisonment for five years or more in which a charge has been framed by the Court at the relevant time when the nomination papers are subjected to scrutiny is by itself a disqualification and such disqualification has nothing to do with the contingent situation of acquittal or conviction. We, therefore, do not agree with the view taken by the Division Bench as contained in the order dt. 3.4.2002, whereby, reference has been made and agree with the reasons as given in the judgment and order dt. 25.1.2002 in D.B. Civil Writ Petition No. 2463/2001 and have no hesitation in answering the question referred to us as under:—

A Sarpanch elected by a democratic process can certainly be ousted from the office on the ground that he was disqualified to contest the election u/S. 19(gg)





of the Rajasthan Panchayati Raj Act, 1994 as on the date of filing nomination papers when he was undergoing a trial before the competent Court which had already taken the cognizance of the offence and had framed the charge against him for the offence punishable with imprisonment for five years or more and even if he stood acquitted of such charge at the end of the trial, it could not be a ground not to upset his election."



17. In the said judgment, it has been clearly held that a person, against whom cognizance of the offence has been taken by the competent court and charges have been framed for offence punishable with imprisonment for five years or more, chances of acquittal of such charges could not be a ground to challenge.
18. The answer would show that disqualification does not refer to conviction but refers to the pendency of trial. The factor of pendency of trial of the offence punishable with imprisonment of five years or more in which charges have been framed by the competent court at the relevant time when the nomination papers were subjected to scrutiny by itself is a disqualification and such disqualification has nothing to do with the contingent situation of acquisition and conviction.
19. As such Shiv Ram (supra), the Division Bench considered the precise objection that the disqualification at the stage of charge would often the presumption of innocence under Article 14 and 21 of the Constitution of India and recognized that the restriction is not merely upon registration of an FIR or a suspicion against a person. The statutory disqualification operates only after the competent court has taken cognizance and framed the charge in respect of an offence punishable



with imprisonment for five years or more. The Court, therefore, treated the stage of framing of charge as a significant safeguard because by that stage, the allegations have undergone investigation and judicial scrutiny. The objection based upon Article 21 was thus rejected. The statutory restriction on contesting an election does not amount to deprivation of personal liberty and the right to contest an election is not a fundamental right under Article 21 of Constitution of India. The same principle has subsequently been recognized in Narayan Lal (supra), wherein the Full Bench recorded that the validity of Section 19(gg) had already been upheld in Shiv Ram (supra) and found the contrary view incompatible with the reasoning in Shiv Ram (supra).

20. The argument of Article 21 of the Constitution has also no substance with statutory classification. Classification is based upon intelligible criteria, (i) cognizance by competent court, (ii) framing of the charges, (iii) an offence punishable with imprisonment of five years or more. As the classification has direct nexus with the seriousness of the offence and the legislative objective of ensuring that the person facing serious criminal charges is not entitled to occupy the Elective public office.

21. In Shiv Ram (supra), the five years threshold and the legislative classification were upheld as having a rational basis. The subsequent decision in Yogendra Nandwana (supra) reiterated that the reasonable classification founded upon intelligible differentia does not offend Article 14.



The Constitutional provision once upheld is not opened to challenge as a new ground.

22. The Hon'ble Supreme Court in the matter of **Delhi Cloth and General Mills Ltd. vs. Shambhu Nath Mukherji**⁶ relying upon its earlier decision in the matter of **Niemia Textile Finishing Mills Ltd. vs. The 2nd Punjab Industrial Tribunal**⁷, has held that the constitutionality of provision once upheld by the constitutional court is not open to challenge again on a new ground and observed in paragraph 11 as under:

"11. It is submitted by Mr. Dial in that decision this Court was only required to consider the objection raised on the score of Article 14 on a ground which is different from the one he would like to take before us. We are, however, unable to accept this submission. If this Court held section 10 as intra vires and repelled the objection under Article 14 of the Constitution it would not be permissible to raise the question again by submitting that a new ground could be raised to sustain the objection. It is certainly easy to discover fresh grounds of attack to sustain the same objection, but that cannot be permitted once the law has been laid down by this Court holding that section 10 of the Act does not violate Article 14 of the Constitution. The ratio decidendi of Niemia Textile Finishing Mills (supra) will apply while dealing with the objection under Article 14 of the Constitution in respect of the present reference under section 10(1)(c) of the Act. The submission of the learned counsel is, therefore, devoid of substance."

Principle of finality of judgment

23. The binding character of decision rendered by the court of competent jurisdiction is essential component of rule of law and litigation cannot be permitted to subject the same controversy to successive round of litigation merely by altering the form of challenge. Once a competent criminal

6 (1977) 4 SCC 415

7 AIR 1957 SC 329



court has conclusively determined the validity of statutory provision on a particular constitutional ground, a subsequent challenge found upon the very same constitutional contention cannot be permitted to proceed as though the earlier adjudication had never happened. To hold otherwise, would amount to permitting the same constitutional controversy to successfully reopen by changing the identity of the petitioner, thereby exposing the judicial process to conflict decisions, uncertainty and endless litigations.

24. Their Lordships of the Supreme Court in the matter of **Union of India vs. Major S.P. Sharma**⁸ held that in a country governed by the rule of law, finality of judgment is absolutely imperative and great sanctity is attached to the finality of the judgment and it is not permissible for the parties to reopen the concluded judgments of the court as it would not only tantamount to merely an abuse of the process of the court but would have far-reaching adverse affect on the administration of justice. It was further held that the judicial system only works if someone is allowed to have the last word.

25. In **Kesho Ram & Co. vs. Union of India**⁹, their Lordships of the Supreme Court declined to permit the validity of a provision already upheld to be reopened merely by advancing the grounds which had not been urged earlier, holding that the binding effect of the earlier determination did not depend upon whether a particular argument had been considered, so

8 (2014) 6 SCC 351

9 (1989) 3 SCC 151



long as the underlying point had already been decided and held in paragraph 12 as under:

"12. Finality in litigation and public policy both require that a litigant should not be permitted to challenge validity of the provisions of the Act or notification at different times on different grounds. Once petitioner's challenge to Section 3 and the impugned notification was considered by the court and the validity of the same was upheld it must be presumed that all grounds which could validly be raised were raised and considered by the court."

26. As such, we are of the opinion that the present challenge must be examined in the context of two earlier authoritative adjudications of the Bench of the same strength in the case of Shiv Ram (supra) and Yogendra Nandwana (supra) that the issue in question has already been considered and the constitutionality of the similar provision has been considered and upheld. Once constitutionality of the *pari materia* provision has been considered and upheld and scrutinized by the Court, the same cannot be permitted to be reopened by the petitioner on a different ground, on the principle of certainty of law, avoidance of conflicting judgments and preservation of the integrity of the judicial process.

Plea of discrimination between the Parliamentary legislations.

27. The petitioner's comparison with Section 8 of the Representation of People Act, 1950, cannot found on Article 14 challenge since the law made by different legislatures under different constitutional entries cannot be tested against each other for parity. This is the precise ground on which the Hon'ble Supreme Court rejected the identical situation in



Javed vs. State of Haryana¹⁰, wherein their Lordships held that it is not permissible to compare a piece of legislation enacted by a State in exercise of its own legislative power with the provisions of another law, though it may be *pari materia*, but enacted by Parliament or by another State Legislature within its own power to legislate. When the sources of authority for the two statutes are different, Article 14 can have no application. Their Lordships rejected the argument that classification applicable to the Panchayat elections became unconstitutional merely because it does not apply to the Parliament or Assembly elections and the Court recognized that Local Self Government institution constitute a separate constitutional category. In the case of Javed (supra), their Lordships have observed as under:

"13. Similarly, legislations referable to different organs of local self-government, that is, Panchayats, Municipalities and so on may be, rather are, different. Many a time they are referable to different entries of Lists I, II and III of the Seventh Schedule. All such laws need not necessarily be identical. So is the case with the laws governing legislators and parliamentarians.

*14. It is not permissible to compare a piece of legislation enacted by a State in exercise of its own legislative power with the provisions of another law, though *pari materia* it may be, but enacted by Parliament or by another State Legislature within its own power to legislate. The sources of power are different and so do differ those who exercise the power. The Constitution Bench in State of M.P. v. G.C. Mandawar [AIR 1954 SC 493 : (1955) 1 SCR 599] held that the power of the Court to declare a law void under Article 13 has to be exercised with reference to the specific legislation which is impugned. Two laws enacted by two different Governments and by two different legislatures can be read neither in*

¹⁰ (2003) 8 SCC 369





conjunction nor by comparison for the purpose of finding out if they are discriminatory. Article 14 does not authorize the striking down of a law of one State on the ground that in contrast with a law of another State on the same subject, its provisions are discriminatory. When the sources of authority for the two statutes are different, Article 14 can have no application. So is the view taken in *Bar Council of U.P. v. State of U.P.* [(1973) 1 SCC 261], *State of T.N. v. Ananthi Ammal* [(1995) 1 SCC 519] and *Prabhakaran Nair v. State of T.N.* [(1987) 4 SCC 238].

15. to 21. xxxxxxxx

22. Right to contest an election is neither a fundamental right nor a common law right. It is a right conferred by a statute. At the most, in view of Part IX having been added in the Constitution, a right to contest election for an office in Panchayat may be said to be a constitutional right — a right originating in the Constitution and given shape by a statute. But even so, it cannot be equated with a fundamental right. There is nothing wrong in the same statute which confers the right to contest an election also to provide for the necessary qualifications without which a person cannot offer his candidature for an elective office and also to provide for disqualifications which would disable a person from contesting for, or holding, an elective statutory office."

Prevention of criminalization of politics constitutes a legitimate constitutional concern.

28. The Hon'ble Supreme Court has repeatedly expressed concern regarding criminalization of politics in the matter of **Union of India vs. Association for Democratic Reforms**¹¹, **People's Union for Civil Liberties vs. Union of India**¹² and **Public Interest Foundation vs. Union of India**¹³. These judgments recognize that public confidence in democratic

11 (2002) 5 SCC 294

12 (2003) 4 SCC 399

13 (2019) 3 SCC 224



institutions is affected when individuals facing serious criminal charges participate in electoral politics.

29. As such, we are of the considered opinion that the object sought to be achieved by Section 24(iii) is constitutionally legitimate and directly connected with preserving the integrity of local democratic institutions.

Objective criteria under Section 24(iii)

30. The significant aspect of the legislation is the nature of disqualification itself. The legislation has not disqualified every person, against whom the complaint or FIR has been filed, nor it has been acted merely upon suspicion or accusation. The disqualification becomes operative only after (i) the cognizance has been taken of the offence and (ii) the competent jurisdictional court frames charges, and (iii) the offence involved is punishable with imprisonment of five years or more. As such, it is an important constitutional safeguard; the classification is objective, identifiable and capable of judicial verification. Thus, there exists an intelligible differentiate and a rational nexus between the classification and the legislative objective. The provision provides double safeguard in the form of judicial scrutiny at two stages, i.e. at the stage of cognizance and at the stage of framing of charges. The legislative objective is preservation of integrity and public confidence in local democratic institutions. As such, Section 24(iii) is not capricious, irrational, excessive, not disproportionate and founded upon a clear legislative principle and it does not suffer from the vice of manifest arbitrariness.



Comparison of Section 24(iii) with Section 24(i)

31. Section 24(iii) and 24(i) of the Act of 2009 operate in distinct and different fields. The petitioner's attempt to compare Section 24(iii) and 24(i) is also clearly lacks merit and misconceived. The two provisions operate in district fields and different stages. Section 24(i) deals with classification arising from situation where there has already been a judicial determination of conviction and sentence subject to statutory framework contained therein, whereas Section 24(iii), on the other hand, addresses a different legislature concerned eligibility to contest election where the competent court has already taken cognizance and framed charges for serious offences punishable with imprisonment of five year or more. As such the legislature was constitutionally competent to identify different stage of criminal proceedings and prescribed different electoral consequences. Therefore, there is no occasion to hold that two provisions must be identical, merely because both operate in the field of electoral disqualification. Distinction is clearly significant and provides a rational basis for separate treatment contemplated by legislature.

Conclusion

32. It is, therefore, held that the challenge to the constitutionality of Section 24(iii) is devoid of merit as the challenge to the constitutional validity has already been upheld by this Court in Shiv Ram (supra), Narayan Lal (supra) and Yogendra Nandwana (supra).



33. The petitioner's proposition deserves to be and is hereby rejected. However, this will not bar the petitioner to challenge the election by duly filing the election petition after the election in accordance with law.

34. The writ petition is, accordingly, dismissed.

(MUNNURI LAXMAN),J

(SANJAY K. AGRAWAL),CJ

101/Mohit Tak