

The of the legislative assembly of a state



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The person who applies for the writ must show what interest he has in the office with reference to which the writ is sought. If the office is of a public nature it is not necessary that the person who applies for the writ must show any infringement of his right.

2. Who can apply for writ of quo warranto:

An information in the nature of quo warranto would lie even at the instance of a realtor who has no personal interest in the matter. Information in the nature of quo warranto can be filed in the case of Municipal Corporations of Local Boards on the relation of private parties.

It is open to a private individual to bring it to the notice of the Court that a person who is disqualified to hold an office is still holding it. Therefore, it is competent for a voter or a member of any of the local bodies to invoke the jurisdiction of the High Court for the issue of the information in the nature of quo warranto. A member of the Legislative Assembly of a State can apply for a writ of quo warranto against the Speaker. He has a right to know by what authority the Speaker of the body functions as such.

In *Rex v. Speyer*, it was held in England that a relator in proceeding for issue of a writ of qua warranto need not necessarily have a direct or personal interest as distinct from the interest which he may have in common with the public. In this connection the following observations of the Nagpur High Court in *C. D. Karake v. T. L.*

Shevde may also be noted: “ In proceedings for a writ of quo warranto, the applicant does not seek to enforce any right of his as such, nor does he complain of any non-performance of duty to him. What is in question is the

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right of the non-applicant to hold the office and order that is passed is an order outing him from that office.”

3.

When to issue writ of quo-warranto:

In deciding whether information in the nature of quo warranto should be refused or whether the rule should be granted, the test is whether there has been usurpation of an office; in other words, whether there is a legal disability to hold the office by or a legal prohibition against a person occupying a particular place.

4. When writ of quo warranto cannot be issued:

Where the office is abolished, no information in the nature of quo-warranto lies. The office must not be of a private nature when writ of quo warranto is to be availed of.

It does not lie against the master of a hospital and free school appointed by Governors of a private charitable foundation whose duties are not public. On the same ground the writ of quo warranto was refused by the High Court in *Janialpur Arya Samaj v. Dr. D. Ram*, AIR 1954 Pat. 297 where the petitioner moved the High Court for issue of a writ in the nature of quo warranto against the members of the Working Committee of the Bihar Raj Arya Pratinidhi Sabha a private religious institution.