

(2019) 09 UK CK 0169

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2962 Of 2019

Asha Giri & Another

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 24-09-2019

Acts Referred:

Uttarakhand Panchayati Raj Act, 2016 — Section 9(8)

Citation : (2019) 09 UK CK 0169

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Lalit Belwal, Abhilasha Belwal, Yogesh Pandey, Suyash Pant, Sanjay Bhatt

Judgement

Sudhanshu Dhulia, J

1. The petitioners in this writ petition are seeking a writ in the nature of mandamus directing the respondent authorities to include the name of the petitioners in the electoral roll of Village Surya Gaon, Tehsil and District Nainital in the ongoing panchayat elections.

2. Learned counsel for the petitioners has relied upon sub-section (8) of Section 9 of the Uttarakhand Panchayati Raj Act, 2016. Sub-section (8) of Section 9 of the Uttarakhand Panchayati Raj Act, 2016 reads as under:-

"9. Electoral roll for each territorial constituency.-

(1)....

(2)....

(3)....

(4)....

(5)....

(6)....

(7)....

(8) Where the State Election Commission is satisfied after making such inquiry as it may deem fit, whether on an application made to it or suo moto, that any entry in the electoral roll should be corrected or deleted or that the name of any person entitled to be registered should be added in the electoral roll, it shall subject to the provisions of this Act and rules and order made thereunder, correct, delete or add the entry, as the case may be:

Provided that no such correction, deletion or addition shall be made after the late date for making nominations for any election in the Gram Panchayat and before the completion of that election;

Provided further that no deletion or correction of any entry in respect of any person affecting his interest adversely shall be made without giving him reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him."

3. The name of the petitioners for inclusion in the electoral roll of Panchayat Elections for Village Surya Gaon, Tehsil and District Nainital has been rejected by the District Magistrate, Nainital vide order dated 23.09.2019 on ground that the challan has been deposited by the petitioners on 16.09.2019 and the application was received by the concerned officer after 16.09.2019 i.e. on 19.09.2019. However, since there is no bar under sub-section (8) of Section 9 of the Uttarakhand Panchayati Raj Act, 2016, and correction, deletion or addition can be made till the last date of making the nomination which is today i.e. 24.09.2019, the concerned Officer is directed to consider the name of the petitioners for inclusion in the electoral roll of Panchayat Elections for Village Surya Gaon, Tehsil and District Nainital afresh, and pass appropriate orders therein.

5 Three weeks' time is granted to the respondents to file counter affidavit.

6. List this matter after three weeks in the daily cause list.

7. Learned State Counsel shall inform the concerned Officer about this order for onward compliance.

8. Let a certified copy of this order be supplied today itself on payment of usual charges.