
(2012) 11 AHC CK 0033
In the Allahabad High Court
Case No : C.M.W.P. No. 60338 of 2012

Brij Lal Singh and Another	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 22-11-2012

Acts Referred:

Constitution of India, 1950 — Article 226
Representation of the People Act, 1951 — Section 123

Citation : (2013) 4 AWC 3507

Hon'ble Judges : Satya Poot Mehrotra, J; Het Singh Yadav, J

Bench : Division Bench

Advocate : Kamlesh Kumar Gangwar, for the Appellant;

Final Decision : Dismissed

Judgement

Satya Poot Mehrotra and Het Singh Yadav, JJ.—The present writ petition has been filed by the petitioners under Article 226 of the Constitution of India, inter alia, praying for quashing the Election held on 30.10.2012 in respect of the Cooperative Society in question. We have heard Shri Kamlesh Kumar Gangwar, learned counsel for the petitioners and the learned standing counsel appearing for the respondent Nos. 1 and 4, and perused the record.

2. Learned standing counsel appearing for the respondent Nos. 1 and 4 has raised a preliminary objection that the petitioners have got an alternative remedy of taking recourse to the proceedings under Rule 444C of the U.P. Co-operative Societies Rules, 1968 framed under the U.P. Co-operative Societies Act, 1965 for questioning the election in the Co-operative Society in question on the grounds mentioned in the said Rule.

3. Sri Kamlesh Kumar Gangwar, learned counsel for the petitioners submits that existence of alternative remedy is not an absolute bar and the writ petition may be entertained despite the existence of such alternative remedy.

4. We have considered the preliminary objection raised by the learned standing

counsel appearing for the respondent Nos. 1 and 4, and we are inclined to accept the same.

5. Rule 444C of the U.P. Cooperative Societies Rules, 1968 framed under the U.P. Co-operative Societies Act, 1965 lays down as under:

444C. (1) The election in a co-operative society shall not be called in question either by arbitration or otherwise except on the ground that-

(a) the election has not been a fair election by reasons that corrupt practice, bribery or undue influence has extensively prevailed at the election, or

(b) the result of the election has been materially affected-

(i) by improper acceptance or rejection of any nomination, or

(ii) by improper reception, refusal or rejection of voters, or

(iii) by gross failure to comply with the provisions of the Act, the rules or the bye-laws of the society.

Explanation.--For the purpose of this rule corruption, bribery or undue influence shall have the meaning assigned to each u/s 123 of the Representation of the People Act, 1951.

(2) A dispute relating to election shall be preferred by the aggrieved party within forty-five days of the declaration of the result.

6. It is thus, evident that the election in the Co-operative Society may be challenged by taking recourse to the proceedings under Rule 444C of the U.P. Co-operative Societies Rules, 1968 framed under the U.P. Co-operative Societies Act, 1965 on the grounds mentioned in the said Rule.

7. The petitioners, therefore, have got an alternative remedy for questioning the election held on 30.10.2012. The present writ petition filed by the petitioners is liable to be dismissed on the ground of availability of alternative remedy to the petitioners, and the same is accordingly dismissed on the said ground.