
(2018) 11 UK CK 0264
In the Uttarakhand High Court
Case No : Special Appeal No. 969 Of 2018

Mahendra Verma

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 30-11-2018

Acts Referred:

Citation : (2018) 11 UK CK 0264

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Singh, J

Bench : Division Bench

Advocate : Siddharth Sah, B.S. Parihar, Sanjay Bhatt

Final Decision : Disposed Off

Judgement

Ramesh Ranganathan, C.J.

1. Heard Sri Siddharth Sah, learned counsel for the appellant, Sri Sanjay Bhatt, learned counsel for the District Election Officer and Sri B.S. Parihar, learned Standing Counsel for the State of Uttarakhand / respondent nos. 1, 2, 3 & 5 and, with their consent, the appeal is being disposed of at this stage.

2. The appellant filed the said writ petition seeking a mandamus directing the respondent authorities to delete / exclude the name of the petitioner, and that of his family members, from the electoral list of Ward No. 4, Naukuchiyatal, Nagar Panchayat Bhimtal.

3. It is the appellant-writ petitioner's case that the areas where they are residing fall beyond the territorial limits of Ward No. 4, Naukuchiyatal, Nagar Panchayat Bhimtal; consequently their names ought not to have been included in the electoral list of Ward No. 4, Naukuchiyatal, Nagar Panchayat Bhimtal in the first place; and since their names were included therein erroneously, the appellant-petitioner had perforce to invoke the jurisdiction of this Court seeking a direction to the respondents to delete his name, and that of his family members, from the electoral list of Ward No. 4.

4. In the order under Appeal, the learned Single Judge observed that elections had already been notified, and the date of voting was 18.11.2018; at that stage, no interference was liable to be made by the Court as that would amount to interference in the on going election process; and, in *Mohinder Singh Gill & another vs. The Chief Election Commissioner, New Delhi & others* (1978) 1 SCC 405, the Supreme Court held that, at the stage where the election process has been set in motion, no interference is liable to be made by the Court.

5. Sri Siddharth Sah, learned counsel for the appellant-writ petitioner, would submit that now that elections to Municipalities and other local bodies have concluded, there is no embargo on the appellant-writ petitioner's name being excluded from the electoral list of Ward No. 4, Naukuchiyatal, Nagar Panchayat, Bhimtal; dismissal of the writ petition would disentitle the appellant-writ petitioner from seeking the relief of exclusion of his name, and that of his family members, from the electoral list of Ward No. 4, Naukuchiyatal, Nagar Panchayat Bhimtal; and a mandamus should, therefore, be issued to the authorities concerned to examine the appellant-writ petitioner's claim that his name, and that of his family members, should not have been included in the electoral list of Ward No. 4, Naukuchiyatal, Nagar Panchayat Bhimtal in the first place; and since it has been erroneously included, it should be deleted therefrom.

6. Sri Sanjay Bhatt, learned counsel for respondent no. 6, would submit that the embargo, in correcting a wrong entry in the electoral list, is no longer in force; it is only during the period, commencing from the date of the election notification till the date of the actual elections, are they disabled from revising the electoral rolls; and if the appellant-writ petitioner now submits an application in the prescribed format, and on payment of the prescribed fee, to the 6th respondent seeking deletion of his name, and that of his family members, from the electoral list of Ward No. 4, Naukuchiyatal, Nagar Panchayat, Bhimtal, his request would be examined, and an appropriate decision shall be taken in accordance with law.

7. Sri Siddharth Sah, learned counsel for the appellant-writ petitioner, would submit that an application, in accordance with the rules, would be submitted within a week from today, and the prescribed fee would also be paid.

8. Suffice it, in such circumstances, to set aside the order under appeal and, instead, direct the 6th respondent to consider the appellant-writ petitioner's application seeking deletion of his name, and that of his family members, from the electoral list of Ward No. 4, Naukuchiyatal, Nagar Panchayat Bhimtal with utmost expedition and, in any event, within a period of two months from the date of receipt of the appellant-writ petitioner's application in the prescribed format, and on proof of payment of the prescribed fee being furnished.

9. The appeal is disposed of accordingly.

10. Let a certified copy of this order be issued to the parties, by 01.12.2018, on payment of prescribed charges.