

(2013) 08 AHC CK 0105

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 41733 of 2013

Manish Kumar

APPELLANT

Vs

Subhash and Others

RESPONDENT

Date of Decision : 05-08-2013

Acts Referred:

Uttar Pradesh Panchayat Raj Act, 1947 — Section 12C

Citation : (2013) 08 AHC CK 0105

Hon'ble Judges : Tarun Agarwala, J

Judgement

Tarun Agarwala, J.

Since no factual controversy is involved, the writ petition is being decided at the admission stage itself without calling for any counter affidavit.

The petitioner was elected as the Pradhan. The respondent, being aggrieved, filed an election petition under Section 12(C) of the U.P. Panchayat Raj Act. The election petition was rejected and the respondent, being aggrieved, filed a revision under Section 12(C)(6) of the said Act. The revisional authority allowed the revision by the impugned order and remitted the matter again to the prescribed authority to decide the matter in the light of the observation made by the revisional authority. While remitting the matter, the revisional authority directed that till the disposal of the election petition before the prescribed authority, the petitioner would remain under suspension. The petitioner, being aggrieved by this part of the order, has filed the present writ petition.

Having heard Sri Sashi Nandan, the learned Senior Counsel assisted by Sri J.P. Singh, the learned counsel for the petitioner and Sri Rahul Sahai, the learned counsel for the respondent, the Court is of the opinion that the revisional authority has transgressed its jurisdiction in issuing such a direction. The revisional authority, at best, could have allowed the revision and set aside the election of the petitioner but while remitting the matter had no authority to pass an interim order in the fashion, in which it has been done.

Under Section 12(C)(8) of the said Act, the revisional authority has been given powers to pass an interim order pending decision by the prescribed authority. Such directions or interim orders passed by the revisional authority can only be in relation to the election petition or directions to the prescribed authority but the revisional authority has no power to dabble or interfere in the functioning of the Pradhan, who has been given a constitutional status and who is required to function as per the duties given under the Act.

In the light of the aforesaid, the impugned order passed by the revisional authority suspending the petitioner till the disposal of the election petition before the prescribed authority to that extent is set aside. The writ petition is allowed. The prescribed authority is directed to decide the election dispute within four weeks from the date of production of a certified copy of this order.