
(2014) 04 AHC CK 0004
In the Allahabad High Court
Case No : Election Petition No. 1 of 2014

Mohan Lal and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 18-04-2014

Acts Referred:

Limitation Act, 1963 — Section 10, 11, 12, 13, 14

Representation of the People Act, 1951 — Section 117, 81, 82, 86, 86(1)

Citation : (2015) 2 ADJ 639 : (2015) 4 ALJ 83

Hon'ble Judges : Pankaj Mithal, J

Bench : Single Bench

Advocate : Sushil Chandra Srivastava, Advocates for the Appellant

Judgement

Pankaj Mithal, J.—The petition was adjourned on the last date. No one appears for the petitioners even today even though the name of the counsel is printed in the cause list.

2. I have perused the petition.

3. This is an election petition filed by two petitioners for quashing the order dated 16.2.2013 declaring the election of Smt. Laxmi Gautam, respondent No. 4 from the 31 Legislative Assembly (Reserve Constituency) Chandausi, U.P.

4. The election petition was presented on 13.2.2014.

5. The petition as per the office report dated 23.1.2014 is beyond time by 1 year 278 days. There is no objection against the said report.

6. Section 81 of the Act provides for presenting an election petition on the specified grounds within forty five days of the election of the returned candidate or if there are more than one returned candidate and the dates of their election are different, the later of those two dates.

7. The petitioners in paragraph 6 of the petition states the election result was declared on 6.3.2012 and the respondent No. 4 (wrongly mentioned as

respondent No. 5) was placed at serial No. 1 meaning to have been declared elected.

8. The petition is therefore clearly beyond time as reported.

9. An election petition is not an action in common law or in equity but under a statute which provides that no election to the Parliament or to any State Legislature can be called in question except by an election petition presented in accordance with the Representation of the People Act, 1951. Therefore, the rule of statutory limitation applies to election petitions.

10. The election petition which is in the nature of original proceedings has to be presented strictly within the limitation contained in the Act. There is no provision in the Act to condone the delay in its filing. The Act is a complete and a self contained code which does not admit introduction of the principles or the provisions of law contained in the Limitation Act and, therefore, the limitation Act is not applicable to the election petitions vide K. Venkateswara Rao and Another Vs. Bekkam Narasimha Reddi and Others, .

11. In Hukumdev Narain Yadav Vs. Lalit Narain Mishra, , it has been held that even if the special law i.e. Representation of Peoples Act, 1951 does not specifically exclude the provisions of Section 4 to 24 of the Limitation Act nonetheless as the Act is a complete code in itself the provisions of the Limitation Act must be held to be necessarily excluded. Therefore, as the Limitation Act is not applicable to the election petitions under the Act, the delay in presentation of election petition is not liable to be condoned.

12. The Court otherwise also has no power to condone any delay in the filing of the election petition.

13. Section 86(1) of the Representatives of Peoples Act, 1951 provides that the High Court shall dismiss an election petition for non compliance of provisions of Section 81 or Section 82 or Section 117 and the order dismissing the election petition under this sub-section shall be deemed to be an order made under clause (1) of Section 98 of the Act which is liable to be dismissed under Section 86(1) of the Act.

14. In view of the above, as the election petition has been presented beyond the period of limitation provided under Section 81 of the Act, it is a petition which does not comply with the statutory provision of Section 81 of the Act. Accordingly, the petition is dismissed summarily under Section 86 of the Act for non compliance of provisions of Section 81 of the Act.