

(2012) 12 AHC CK 0137
In the Allahabad High Court

Piyusha Yadav

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 28-12-2012

Acts Referred:

Citation : (2012) 12 AHC CK 0137

Hon'ble Judges : Sheo Kumar Singh, J and Vikram Nath, J

Final Decision : Dismissed

Judgement

Vikram Nath, J.—This petition has been filed on 28.12.2012 and under the orders of Hon"ble Sr. Judge of the same date matter is placed before us at the residence.

2. Sri Dinesh Kumar Chaubey, learned Advocate assisted by Sri Sanjay Mishra is present for the petitioner.

3. Sri Chandra Shekhar Singh, learned Additional Chief Standing Counsel is for the State authorities.

4. Petitioner happened to be elected Block Pramukh of Kshetra Panchayat Takha, district Etawah.

5. Notice for no confidence dated 21.9.2012 was dispatched on 22.9.2012.

6. Meeting was scheduled for 10.10.2012 in which motion was carried out.

7. To challenge the proceedings dated 10.10.2012 which was passed/carried out against the petitioner, she filed Writ Petition C No. 58752 of 2012 (Smt. Piyusha Yadav Vs. State of U. P. and others).

8. On 7.11.2012 this Court entertained the writ petition in presence of the counsel for the caveator and learned Standing Counsel but refused to stay the declaration of the result. Following order was passed :

"Having regard to the facts and circumstances of the case and having considered the submissions made by the learned counsel for the parties, it is provided that

the No Confidence Motion dated 10.10.2012 passed against the Petitioner, will be given effect to and implemented subject to the result of the present Writ Petition."

9. Admittedly that writ petition is still pending in which counter affidavit is said to have been filed.

10. Counsel for the petitioner submits that he is to shortly file rejoinder affidavit.

11. After the orders of this Court dated 7.11.2012, a fresh notice has been published by the District Collector/District Election Officer on 24.12.2012 in consequence to the notification of the State Election Commission dated 20.12.2012 by which schedule has been provided for filling the post of office of the Block Pramukh Takha.

12. 2.1.2013 is the date fixed for nomination and on the same date scrutiny is to take place and the withdrawal, if any, is to take place on 3.1.2013 and thereafter polling is scheduled for 4.1.2013 and on the same date result is to be declared.

13. Argument of the learned counsel for the petitioner is very simple.

14. It is submitted that as the writ petition filed by the petitioner is pending in this Court wherein it has been observed that the passing of the no confidence motion dated 10.10.2012 against the petitioner will be subject to the result of the writ petition and, therefore, irrespective of passing of the no confidence motion fresh election and filling up of the office is not at all justified.

15. We are not able to accept this submission for the simple reason that the learned counsel has not taken care of the observation made by this Court which is in clear terms that no confidence motion dated 10.10.2012 passed against the petitioner will be given effect to and implemented.

16. This clearly means that whatever has been decided in the no confidence motion proceedings dated 10.10.2012 i.e. removal of the petitioner has to be given effect and implemented. Of course it will be subject to the result of the writ petition upon which all concerned are to abide.

17. As a consequence of orders of this Court dated 7.11.2012 fresh steps to fill up post has to take place and therefore, if the District Election Officer pursuant to the notification of the State Election Commission has notified/published the election schedule then we are not to interfere therein.

18. It is for the petitioner to pursue his earlier writ petition which is pending.

19. For the reasons given above, no interference of this Court, at this stage, is required,

20. Writ petition accordingly fails and is dismissed without any order as to cost.

Sachdeva.