

(2005) 06 UK CK 0018
In the Uttarakhand High Court
Case No : Special Appeal No. 30 of 2005

Praveen Kumar

APPELLANT

Vs

Registrar, Firms, Chits, Societies and Others

RESPONDENT

Date of Decision : 09-06-2005

Acts Referred:

Citation : (2005) 3 UC 1931

Hon'ble Judges : Cyriac Joseph, C.J.;Rajesh Tandon, J

Bench : Division Bench

Advocate : Parikshit Saini, for the Appellant; V.B.S. Negi and K.P. Upadhyaya, Learned Standing Counsel for State of Uttaranchal, for the Respondent

Final Decision : Dismissed

Judgement

Cyriac Joseph, C.J.—This appeal is filed against an interim order passed by the learned Single Judge in Writ Petition No. 110 of 2005 (M/S). While admitting the special appeal on 06-06-2005, this Court passed an interim order staying the operation of the impugned order dated 25-02-2005. Respondent No. 4 filed Application No. 2907 of 2005 praying to vacate the stay order dated 06-06-2005. When the said application came up for hearing today, the special appeal itself was heard and hence it is being disposed of.

2. The challenge in the writ petition was against the conduct of election to the Managing Committee of Prem Vidyalaya Sabha Narsen. The writ Petitioner raised objections against the voters' list, but his objections were rejected by the Registrar, Firms, Chits, Societies, Uttaranchal vide Annexure 18 Order dated 06-02-2005. Hence, the writ Petitioner filed the writ petition and sought stay of election proceedings. By an interim order passed on 25-02-2005, the learned Single Judge directed that the election process may go on, but the final result of the election shall not be declared till the next date of listing. Aggrieved by the said interim order dated 25-02-2005, this special appeal has been filed by Respondent No. 4 in the writ petition. On 06-06-2005, operation of the impugned order dated 25-02-2005 was stayed. It is stated by the counsel for Respondent

No. 4 (writ Petitioner) that inspite of the order dated 06-06-2005, the votes have not been counted and the result of election has not been declared.

3. Having heard learned Counsel for the parties and having considered the materials placed on record, we are of the view that this appeal is liable to be dismissed. The impugned order is only an interim order passed by the learned Single Judge and it was open to the Appellant to move the learned Single Judge himself to vacate or modify the impugned order. It is stated that the Appellant (fourth Respondent in the writ petition) had moved an application for vacating the order dated 25-02-2005, but it is still pending. In our view, the proper course open to the Appellant was to press for disposal of the said application for vacating the order dated 25-02-2005 and to file appeal only if he was aggrieved by the order passed by the learned Single Judge. Without waiting for the disposal of the application for vacating the order dated 25-02-2005, the Appellant has filed this special appeal. We also notice that no irreparable injury has been caused to the Appellant by the impugned order, as the learned Single Judge has allowed the election process to go on and only the declaration of the final result has been stayed. The learned Single Judge has taken into account the balance of convenience while passing the interim order. If the contentions of the writ Petitioner are ultimately upheld, the election proceedings will be quashed and if the contentions of the Petitioner are rejected, the election proceedings will be continued from where it was stopped and the results will be declared. Therefore, no irreversible situation has been created by the impugned interim order of the learned Single Judge. In such circumstances, this appeal cannot be maintained against the interim order passed by the learned Single Judge in the writ petition.

4. In the above circumstances, the appeal is liable to be dismissed. It is open to the Appellant to move the learned Single Judge himself for passing final order in the application for vacating the interim order dated 25-02-2005 or for disposing of the writ petition itself. We have no reason to assume that if such an application is moved by the Appellant, it will not be considered by the learned Single Judge.

5. Subject to the above observations, the special appeal is dismissed.