

(2012) 05 AHC CK 0140

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 24467 of 2012

Rajeev Kumar Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 31-05-2012

Acts Referred:

Constitution of India, 1950 — Article 243ZG

Citation : (2012) 6 ADJ 694 : (2012) 6 AWC 5592

Hon'ble Judges : R.K. Agrawal, J; Mushaffey Ahmad, J

Bench : Division Bench

Advocate : Brijesh Kumar Srivastava, for the Appellant; B.N. Singh and Som Veer, for the Respondent

Final Decision : Dismissed

Judgement

1. By means of the present writ petition, petitioner seeks the following reliefs :

(i) to issue a writ, order or direction in the nature of mandamus commanding the respondent Nos. 2 to 4 to transfer the voters tot he Ward No. 15 Khataina from the Ward No. 49 Jatpura, House No. 35/382 to 35/634 as well as house Nos. 35/636 and House No. 35/660, Naubasta Lohamandi, Agra including the house number of the petitioner and it is further prayed that this Hon"ble Court may graciously be pleased to issue an ad-interim mandamus commanding the respondent No. 2 and 4 to make sure to this Hon"ble Court that the Nagar Nigam Election for the year 2012 would have been done after transferring the name of the voters to the Ward No. 15 Khataina from the Ward No. 49, Jatpura in view of the Government Order dated 20.3.2006, issued under sub-section 2 of Section 32 of the Municipal Corporation Act, 1959 (Annexure -1 to this writ petition).

(ii) to issue a writ, order or direction in the nature of mandamus commanding the respondent Nos. 2 to 4 to decide the representations of the petitioner dated 20.3.2012, 24.3.2012 and 21.4.2012, within a specific time, otherwise the respondents will make the election oft he Nagar Nigam, Agra on the basis of the

voter list, 2011.

(iii) to issue any other writ, order or direction which this Hon"ble Court may deem just, fit and proper in the facts and circumstances of the case to meet the ends of justice.

(iv) to award the cost to the petitioner".

The case of the petitioner is that House Nos. 35/382 to 35/634 as well as House Nos. 35/636 to 35/660, Naubasta Lohamandi Agra including the house of the petitioner in Ward No. 15 instead of Ward No. 49, Agra Municipal Corporation and, therefore, voters residing in these houses have wrongly been included in the voter list of Ward No. 49. The petitioner has made representations dated 20.3.2012, 24.3.2012 and 21.4.2012 for correcting the error and including them as eligible voters in Ward No. 15 in the ensuing election. We may mention here that as the State Election Commission has already notified the election schedule for the Agra Municipal Corporation vide notification issued on 25.5.2012, in view of the provision contained under Article 243ZG of the Constitution of India, we cannot entertain the writ petition and interfere in the matter which may result in delaying or postponing the election process. In this connection, reliance is placed upon the decision of the Hon"ble Supreme Court in the case of Anugrah Narain Singh and Another Vs. State of U.P. and Others, .

The learned counsel for the petitioner has, however, invited the attention of the Court to the provision of Section 39 (5) of the U.P. Municipal Corporation Act, which empowers the Electoral Registration Office to correct the entries made in the electoral roll till the last date for making nomination. We have been informed that the last date for making nomination is 6.6.2012. We, therefore, direct the Electoral Registration Office to look into the grievance of the petitioner and if the house numbers, as mentioned above, fall within the territorial limit of Ward No. 15, correct the electoral roll after being satisfied before the last date of making nomination i.e. 7.6.2012.

The writ petition stands dismissed with the aforesaid observations.