
(1996) 02 AHC CK 0095

In the Allahabad High Court

Case No : Civil Miscellaneous W.P. No. 29041 of 1995

Rajendra Singh

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 15-02-1996

Acts Referred:

Citation : (1996) 02 AHC CK 0095

Hon'ble Judges : M.Katju, J and B.S.Chauhan, J

Final Decision : Dismissed

Judgement

1. This writ petition has been filed for quashing the impugned order dated 3091995 passed by Block Development Officer, Block Barpura, district Etawah (Annexures "2A and 2B" to the writ petition).

2. We have heard Sri Ashok Khare, learned counsel for the petitioner and find no merit in this petition.

3. It appears that elections were held simultaneously on 1841995 for electing Pradhan of Gram Panchayat, Bahurie and also for the Members of Kshetra Panchayat, Barpura. The results of the aforesaid elections were declared on 2041995 and the petitioner was declared as elected Pradhan of Gram Panchayat, Bahurie and also as a Member of Kshetra Panchayat, Barpura. He took oath of both these posts on 2241995 as stated in paragraph No. 6 of the writ petition.

4. Subsequently, it appears that two orders have been passed by the Block Development Officer, Barpura (Annexures ?2A and 2B? to the writ petition). By these orders the post of Pradhan of Gram Panchayat Bahurie held by the petitioner has been declared to be vacated in view of the Ordinance of U. P. Government dated 2051995 (Annexure "3" to the writ petition). This Ordinance was promulgated on 2051995 by the Governor and it is stated in paragraph No. 3 of this Ordinance that if a person has been elected for 2 posts of the Panchayats, he has to, within 60 days, resign from one of the posts, and if he does not send his resignation within 60 days be will have to be deemed to vacate

the lower post. Since the post of Pradhan of Gram Panchayat, Bahurie is a lower post, in our opinion, it was rightly declared vacant.

5. Learned counsel for the petitioner Sri Khare submits that the Ordinance cannot apply to the elections prior to the promulgation of the Ordinance. We do not agree with his contention. The purpose of the prohibition was to remove the mischief of holding 2 posts. If a person works on two posts, his attention will be diverted and he cannot give proper attention only to one post. If we construe the law in the matter as Sri Khare suggests it will go against the very Intention of the Ordinance. The petitioner's election was declared on 2041995 and hence till 2061995 he had to give his choice as to on which of the two posts he wishes to continue. The Ordinance came into force on 2051995 and hence the petitioner had one full month's time to make up his mind to give his choice but he did not do so. Consequently the post of the Pradhan of Gram Panchayat, Bahurie, was rightly declared vacant under the said Ordinance.

6. The petition is dismissed.