
(2005) 04 AHC CK 0161

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 25977 of 2005

Ramakant Singh and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 06-04-2005

Acts Referred:

Uttar Pradesh Co-operative Societies Act, 1965 — Section 70

Uttar Pradesh Co-operative Societies Rules, 1968 — Rule 444C

Citation : (2005) 3 AWC 2477 : (2005) 2 ESC 1431

Hon'ble Judges : Dilip Gupta, J;B.S. Chauhan, J

Bench : Division Bench

Advocate : J.P. Singh, for the Appellant; C.K. Rai and N. Mishra and S.C., for the Respondent

Final Decision : Dismissed

Judgement

B.S Chauhan, J.—This writ petition has been filed for a direction to the District Collector/Returning Officer to include certain members for the purpose of participation in the election of the District Cooperative Bank Limited, Ghazipur and to quash the order dated 23.03.2005.

2. The facts and circumstances giving rise to this case are that there is a Cooperative Society, namely Sadhan Sahakari Limited, Mania Block Bhadaura, District Ghazipur. On 23rd March, 2005, a provisional voters" list was ratified for the purposes of holding election of the Cooperative Societies which did not contain the name of the petitioners" Society, as it had been shown as a defaulter. The said list had been made final and the petitioners" Society has not been included in the voter list for the reason that vide order dated 23.03.2005, the said Society has been shown to be a defaulter. Hence, this petition.

3. Shri J.P. Singh, learned counsel for the petitioners has submitted that the findings recorded by the authority concerned in its order dated 23.03.2005 that the Society is a defaulter, is factually not correct. Petitioners" Society is not a defaulter. Therefore, the petitioners" Society should be permitted to participate

in, the forthcoming election.

4. Shri C.K. Rai, learned Standing Counsel appearing for the respondents has submitted that once the notification of the election has been issued, the writ Court has to keep its hands off and should not entertain a writ petition particularly for the purpose of inclusion or exclusion of any one's name in the voter list. If the petitioners are so aggrieved, they must wait for the result of the election and challenge the same subsequently before the appropriate forum but no relief can be granted at this stage and the petition is liable to be dismissed.

5. We have considered the rival submissions made by learned counsel for the parties and perused the record.

6. The issue involved herein is no more res-integra.

7. In Suresh Kumar Tyagi v. Krishna Kumar and Ors., AIR 1995 Alld. 57, while dealing with the election for the Committee of Management of a Credit Society under the provisions of U.P. Cooperative Societies Act, 1965 (hereinafter called the Act 1965) and the U.P. Cooperative Societies Rules, 1986 (hereinafter called the Rules 1968), this Court held that the general principles of election law are applicable in the case of Cooperative Society and once the notification has been issued, the Court cannot interfere. The only remedy available to the person aggrieved is to challenge the result showing that it has materially affected by action or inaction on the part of the authority concerned. While deciding the said case, reliance had been placed on large number of judgments of the Hon"ble Apex Court particularly in N.P. Ponnuswami Vs. Returning Officer, Namakkal Constituency and Others, S.T. Muthusami Vs. K. Natarajan and Others, A.K.M. Hassan Uzzaman and Others Vs. Union of India (UOI) and Others, Dhartipakar Madan Lal Agarwal Vs. Rajiv Gandhi, and Gujarat University Vs. N.U. Rajguru and Others, In all the aforesaid cases, it has categorically been held that the High Court should be very cautious and slow and should keep its hands off and should not generally interfere with the election process. The person who is aggrieved by any order of any authority, for any reason, whatsoever, must wait till the election result is declared and the only remedy for him is to challenge the same by filing the election petition before the appropriate forum. The said judgment was rendered interpreting the provisions of Rule 444-C of the Rules 1968, which are involved in the case in hand.

8. Another Division Bench of this Court in R.P. Singh Baghel v. City Magistrate/ Election Officer, Allahabad District Co-operative Bank Ltd. and Ors., 1988 (1) AWC 503 considering similar provisions followed the earlier judgment of this Court in Suresh Kumar Tyagi (supra), and the Court held as under:-

"For the reasons stated above, we are of the considered view that this is not a fit case to exercise jurisdiction of this Court to interdict and retard the election process in its midway. Accordingly, the writ petition is dismissed."

9. In the said case, the grievance had been raised that the petitioner therein and

similarly situated delegates of Primary Societies, whose names had been included in the provisional voters' list, had been arbitrarily and illegally excluded from the final voters' list, while some other persons, who were disqualified to be delegates to the general body of the Central Society, had been arbitrarily and illegally included in that final voters' list. The Court held that the only remedy available to the person aggrieved in such a fact situation is u/s 70 of the Act 1965 after conclusion of the election. The Court held that in such a case, the writ Court should not interfere and for that purpose reliance had also been placed upon the judgment of the Hon'ble Apex Court in Ramachandra Ganpat Shinde and another Vs. State of Maharashtra and others, wherein it had been observed as under:-

".....there is no constitutional bar in the exercise of the jurisdiction in respect of election to local bodies. It is equally sound exercise of discretion to bear in mind the policy of the Legislature to have the dispute decided speedily through the machinery of election petition and decline to exercise its writ jurisdiction in election dispute. Once the election process was set in motion according to law, any illegality or irregularity committed while the election process is in progress or the conduct of the election is vitiated by any illegality or irregularity in its process, the proper remedy is to lay action before the Tribunal constituted under that Act by means of an election petition and have the dispute adjudicated without the election process being interdicted or retarded in its midway."

10. Anugrah Narain Singh and Another Vs. State of U.P. and Others, was a case relating to Municipal elections in this State. Barely one week before the voting was scheduled to commence, in the writ petitions complaining of defects in the electoral rolls and delimitation of constituencies and arbitrary reservation of constituencies for the Scheduled Castes, Scheduled Tribes and Backward Classes, the High Court passed interim order stopping the election process. The Apex Court quashed interim orders and observed that if the election is imminent or well under way, the Court should not intervene to stop the election process. If this was allowed to be done, no election would ever take place because someone or the other would always find some excuse to move the Court and stall the elections. The importance of holding elections at regular intervals cannot be overemphasized. If holding of elections was allowed to stall on the complaint of a few individuals then grave injustice would be done to crores of other voters who had a right to elect their representatives to the democratic bodies.

11. This view stands fortified by judgments of the Apex Court in C. Subrahmanyam Vs. K. Ramanjaneyullu and Others, Election Commission of India Through Secretary Vs. Ashok Kumar and Others, Ram Phal Kundu Vs. Kamal Sharma, and Manda Jaganath Vs. K.S. Rathnam and Others, Thus, it is settled legal proposition that once the notification for holding elections is issued, the Court should not interdict and retard the election in the midway, nor it should interfere with the election process. It is not permissible in law that High Court can interfere with the election process having the effect of interrupting,

obstructing or protracting the same. The party aggrieved has to wait till the conclusion of the election process and challenge the result of the election by filing the appropriate petition before the appropriate forum.

12. The case in hand is squarely covered by the judgments of this Court, referred to above. It has been held that writ should not be issued for inclusion or exclusion of a person in or from the voters' list. We do not see any justification to take a different view, rather judicial discipline and decorum warrant to follow the same. Petition is dismissed. However, petitioners shall be at liberty to approach the appropriate forum for appropriate relief after the elections stand concluded.