
(2011) 11 AHC CK 0174
In the Allahabad High Court
Case No : Misc. Bench No. 11108 of 2011

Ramesh Kapoor

APPELLANT

Vs

State of U P Thr. Prin. Secy. Nagar Vikas and Others

RESPONDENT

Date of Decision : 11-11-2011

Acts Referred:

Constitution of India, 1950 — Article 243U

Citation : (2011) 11 AHC CK 0174

Hon'ble Judges : Uma Nath Singh, J;Devendra Kumar Arora, J

Bench : Division Bench

Judgement

1. We have heard learned counsel for parties and perused the pleadings of writ petition.

2. Learned counsel for petitioner submitted that contrary to the provisions of Article 243-U of Constitution, the State Government has decided to appoint Administrators before holding next elections to Municipal Corporations. Learned counsel also submitted that the term of the elected representatives which is to be counted as per the provisions of the said Article, is not yet five years and thus it still continues. According to learned counsel, the term has to be counted from the first meeting, which has been discussed at length in a reasoned judgment reported in (2006) 1 UPLBEC 874 Anugrah Narain Singh vs. State of U.P. and others rendered by a Co-ordinate Bench while dealing with the challenge to an Amendment Act called "The U.P. Local Self Government Laws (Amendment) Act, 2005". In para 47 and 48 of the judgment, the Court has held as under:

47. This leaves us to the question as to what meaning should be given to the words "the date appointed for its first meeting" as occurring in clause (1) of Article 243-U of the Constitution of India. According to the learned counsel for the petitioners the date appointed for the first meeting of the Municipality including Municipal Corporation and Nagar Panchayats, is the date on which the meeting has been called to transact some business and not the date on which the meeting has been called for administering oath to the elected members,

Mayor and Chairman respectively. The date appointed for its first meeting has not been defined either in the Constitution or in any of the provisions of the Municipalities Act or the Adhiniyam and, therefore, we have to consider the meaning as given in the dictionaries and other texts.

48. Meeting has been defined in Shorter Oxford Dictionary is an assembly of a number of people for entertainment, discussion or the like. The learned authors M.Kaye Kerr and H.W.King in their book titled "Procedures for Meeting and Organisations" 1984 Edition, at page 63, have stated that a meeting is a gathering of individuals, delegates, or representatives who desire to accomplish a particular common purpose. The purpose of the meeting must be clearly identified as the first stage in the planning process. Thus, meeting is an assembly of a number of people for discussion or the like.

3. However, contrary to the aforesaid observations made in terms of the constitutional provisions, as aforesaid, the State Legislature passed another amendment soon thereafter on 11.12.2006 defining the term "first meeting" in a way which appears to belie the rationale set out in the Division Bench judgment and also seems to defeat the very mandate of the judgment. However, we also notice that this writ petition has been filed only on the basis of a news clipping and that there is no challenge to the provisions of 2006 Amendment Act. Besides, the petition also contains some reference to the properties of one private developer, and of some other persons which the petitioners apprehend that on appointment of Administrator may be disposed of on throw away prices in detriment to the interest of Municipal Corporation, Lucknow. Though, prima facie, it looks to be a case of the kind which may require our interference but in the absence of adequate materials in the petition, we simply adjourn the matter on the request of learned counsel for petitioners to amend the writ petition.

4. List on 14.11.2011 as fresh.