
(1960) 08 AHC CK 0031
In the Allahabad High Court
Case No : Writ Petition No. 302 of 1958

Shiam Sunder Lal Gupta

APPELLANT

Vs

Haji Mohammad Zakir and others

RESPONDENT

Date of Decision : 19-08-1960

Acts Referred:

Citation : (1961) 31 AWR 146

Hon'ble Judges : R.A. Misra, J;J.K. Tandon, J

Bench : Division Bench

Advocate : J.S. Trivedi, for the Appellant; Standing Counsel for opp. party No. 2 and Mohd. Husain for opposite party No. 1, for the Respondent

Final Decision : Allowed

Judgement

J.K. Tandon, J.—A very short point is involved in this petition and it is whether the election petition by which the Petitioner questioned the election of Respondent No. 1 as Chairman of the Town Area Committee took place in the District Sitapur, was presented within limitation.

2. The brief facts are that the election to the office of Chairman of the said Town Area Committee took place in the year 1957. There were besides the Petitioner three other candidates (who are Respondents Nos. 1 to 3 before us) for the office. The polling, there fore, took place on 16-10-1957. Thereafter the votes were counted by the Returning Officer who declared Respondent No. 1 as successful on 20-10-1957. The petition questioning his election was filed on 19-11-1957, just on the 30th day after the declaration made on 20-10-1957, R. 50 of the Rules relating to Election Petitions against the election of the Chairman of Town Area committees provide that the election can be questioned by an election petition to be presented to the Munsif within whose jurisdiction the Town Area is situate within thirty days from the date on which the election was held.

3. The Election Tribunal has dismissed the election petition preferred by the Petitioner holding that it was beyond thirty days from the date on which the

election was held as in its view the election must be deemed to have been held on 16-10-1957, the date on which the polling took place. We have heard the two counsels & we are absolutely clear in our minds that the interpretation placed by the Tribunal on R. 50 is on the face of it incorrect. The word "election" has indeed been held to be of wide connotation and includes not only the ultimate result of the election but the intermediate stages also. But in the instant case it is not possible to give to this word any other meaning than this viz. that the election was held on the date the gentleman who succeeded at the poll was declared as elected. The right conferred by the Rules is to question the election of a Chairman. So long as the result of polling is not declared there is nothing which can be questioned. The right to question an election arises not earlier than the result is declared. In allowing thirty days time within which the election may be questioned the Legislature had no other intention than that this period shall be computed from the date on which the election of the successful candidate is declared. The order passed by the Election Tribunal is on the face of it erroneous. The same must therefore, be quashed.

4. The petition is accordingly allowed. The order of the Tribunal dated 22-11-1958, is quashed and the Tribunal is directed to decide the petition in accordance with law. The Petitioner to get his costs from the first Respondent.