

(2011) 04 AHC CK 0208
In the Allahabad High Court
Case No : Writ C No. 19704 of 2011

Smt. Mithilesh Devi and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 05-04-2011

Acts Referred:

Uttar Pradesh Panchayat Raj Act, 1947 — Section 12J

Citation : (2011) 04 AHC CK 0208

Hon'ble Judges : Dilip Gupta, J

Bench : Single Bench

Judgement

Dilip Gupta, J.—It is stated that as the Gram Pradhan died, a casual vacancy arose which has been filled up by the District Magistrate exercising powers u/s 12-J of the U.P. Panchayat Raj Act, 1947 (hereinafter referred to as the "Act") by appointment of Respondent No. 5-Prashant against the casual vacancy.

2. Learned Counsel for the Petitioners has submitted that in view of the Division Bench judgment of this Court in Udaiveer Singh v. State Election Commission and Ors. 2009 (6) RD 121, the casual vacancy could have been filled up in accordance with the wishes of the elected members. He, therefore, submits that the District Magistrate could not have made any nomination on his own u/s 12-J of the Act without convening a meeting of the members of the Gram Panchayat.

3. Learned Additional Chief Standing Counsel appearing for the Respondents does not dispute this position, but what he contends is that in view of the fact that a nomination has already been made by the District Magistrate, the Respondent No. 5 may be permitted to continue till a fresh nomination is made by the District Magistrate on the basis of the resolution of the Gram Panchayat.

4. It is true that the District Magistrate has nominated Respondent No. 5-Prashant u/s 12-J of the Act to discharge the duties and exercise the powers of the Pradhan until such vacancy in the office of the Pradhan is filled up but in view of the law laid down in the aforesaid judgment of the Division Bench, it is

ordered that the District Magistrate shall convene a meeting of the Gram Panchayat members as expeditiously as is possible preferably within a period of four weeks to make recommendations for nomination of the member of the Gram Panchayat to discharge the duties and exercising the powers of Pradhan during the interregnum period, but till such recommendations are made and accepted by the District Magistrate, the Respondent No. 5-Prashant who has been nominated by the District Magistrate u/s 12-J of the Act shall continue to function.

5. The petition is, accordingly, disposed of.