
(1995) 04 AHC CK 0071

In the Allahabad High Court

Case No : Civil Miscellaneous W.P. No. 10248 of 1995

U.P.Gram Pradhan Sangathan Aligarh and Another

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 20-04-1995

Acts Referred:

Constitution of India, 1950 — Article 226, 243O
Uttar Pradesh Panchayat Raj Act, 1947 — Section 12C

Citation : (1995) 04 AHC CK 0071

Hon'ble Judges : R.A.Sharma, J and D.K.Seth, J

Final Decision : Allowed

Judgement

1. Petitioner No. 1 claims to be an Association of most of the Gram Pradhans of this State while petitioner No. 2 is a candidate in the election to the post of Pradhan of a Gaon Sabha. They have filed this writ petition for writ of mandamus directing the respondents No. 3, 4, 5 and 6 to postpone and cancel the date fixed for counting of votes for Panchayat election in U.P. Further prayer directing the said respondents to order for repoll in respect of which complaints have been made and for holding enquiry into various irregularities and illegalities in the Panchayat elections, have also been made. In this connection petitioners have made representations also before the State Election Commissioner, copy of which has been filed as Annexure 6 to the writ petition. Learned counsel for petitioners has also invited our attention to paragraphs 20 and 21 of the writ petition, specially the fact that some Ministers belonging to Government of U.P. have gone on hunger strike in order to persuade the State Election Commissioner to order repoll in the elections of the Panchayat in the constituencies where the elections were held.

2. Petitioners have also filed an application in this connection challenging the vires of Article 243O of the Constitution of India and Section 12C of U.P. Panchayat Raj Act and Rules 24 and 25, framed thereunder.

3. We have heard learned counsel for the petitioners at length.

4. So far as the question of challenging the election is concerned, remedy is before the Election Tribunal in view of the provisions contained in Article 2430 of the Constitution. It is true that petitioners, challenging the validity of the said Article, have moved an application in this writ petition. But it is not a ground for this Court, under Article 226 of the Constitution, to interfere with the election process at intermediate stage. However, there are various other allegations made by the petitioners in this connection, which, according to the petitioners, relate to the act and omissions on the part of the Government officials and the Election Commissioner,, before whom they claim to have made representations. It is not necessary for this Court to go into the allegations at this stage, because the petitioners have already approached the State Election Commissioner. We hope and trust that the State Election Commissioner, U.P. will look into the grievances of the petitioners and if found necessary, may pass appropriate orders.

5. Learned standing Counsel prays for and is granted three weeks" time to file counteraffidavit. Petitioners will have two weeks thereafter to file rejoinderaffidavit.

6. List this petition immediately after expiry of five weeks before appropriate bench. Order accordingly.