

Court No. - 6

Case :- WRIT - C No. - 30544 of 2023

Petitioner :- Smt Pragati Chahar

Respondent :- Smt Savitri Devi And 2 Others

Counsel for Petitioner :- Rajesh Kumar Dubey

Counsel for Respondent :- C.S.C.

Hon'ble Mrs. Manju Rani Chauhan,J.

1. Heard Mr. Rajesh Kumar Dubey, learned counsel for the petitioner, learned Standing Counsel for the State and perused the record.

2. The present writ petition has been filed for following main prayer:-

"I. Issue a writ, order or direction in the nature of certiorari quash the order dated 21.08.2023 passed by Additional District Judge, Court No. 7, Mathura in Election Petition No. 03 of 2021 (Smt. Savitri Vs. Smt. Chanchal and others).

II. Issue a writ, order or direction in the nature of mandamus commanding to the learned Additional District Judge, Court No. 7, Mathura allow to the petitioner to cross examine the respondent No. 2 and her witnesses."

3. Brief facts of the case is that on 10.7.2021, respondent No. 2 was elected on the post of Block Pramukh, Block Raya, District Mathura. Respondent No. 1 has filed an election petition on 5.8.2021 challenging therein the election of the petitioner as a Block Pramukh. After receiving the notice, respondent No. 2 has filed her written statement and evidence affidavit before the concerned election Tribunal on 14.7.2023. Petitioner has also submitted her written statement on 11.10.2022. The petitioner has filed an application on 28.7.2023 and made a request before the election Tribunal that the respondent No. 2 and her witnesses should be cross examined by petitioner in the Court. Thereafter, respondent No. 1 has filed an objection on 07.08.2023 before the election Tribunal. The application of the petitioner has been rejected by election Tribunal vide order dated 21.8.2023.

4. Learned counsel for the petitioner submitted that without considering that it is necessary that petitioner be allowed to cross examine the witness of respondent No. 2, election Tribunal has

rejected the application of the petitioner without applying his judicial mind. It is further submitted that if there is a conflict of interest between the defendants, one defendant shall be entitled to cross examine the other defendant or his/her witness but election tribunal has rejected the application of petitioner without applying his judicial mind. It is further submitted that impugned order passed by election tribunal is illegal and arbitrary and may be set aside.

5. On the other hand, learned Standing Counsel submitted that petitioner is being a dummy candidate of respondent No. 1 and they are related to each other. The purpose of cross examination of respondent No. 2 is not for protecting one's own interest but for the purpose of delaying the matter. There is no illegality in the order passed by election Tribunal.

6. The present writ petition is, accordingly, ***dismissed***.

Order Date :- 18.10.2023
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