

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 7701 of 2023

Applicant :- Shiv Kumar Yadav

Opposite Party :- Shri Krishna Kumar Gupta, Special Secretary And Another

Counsel for Applicant :- Avneesh Tripathi, Abhishek Kumar Mishra

Hon'ble Rohit Ranjan Agarwal, J.

Heard learned counsel for the applicant.

The writ Court on 25.08.2023 in Writ-C No.27289 of 2023 had passed the following order:-

"1. This writ petition is connected with various other writ petitions, out of which one writ petition being Writ-C No.22931 of 2018 is of the year 2018 and this Court has no jurisdiction to hear the said case. Further, in the same writ petition, this Court passed following order on 09.07.2018:-

"As prayed, put up this matter, as fresh, on 18.07.2018 along with Writ Petition No. 44505 of 2011, Writ Petition No.58180 of 2010, Writ Petition No. 37846 of 2008, Writ Petition No. 32526 of 2010 and Writ Petition No. 61110 of 2010."

2. By the said order, writ petitions of the year 2008, 2010 and 2011 were directed to be connected.

3. Today, none of the said writ petitions has been shown as connected with this writ petition and it appears that the office has not complied with the order dated 09.07.2018. Even such petitions cannot be heard by this Bench.

4. Sri Avneesh Tripathi, learned counsel for the petitioner submits that on 27.08.2023, i.e. the coming Sunday, elections are going to be held through Authorized Controller.

5. At the same time I am of the view that merely because of tagging of various writ petitions, substantive rights of the parties may not come under jeopardy.

6. Since on coming Sunday the elections are going to be held and there are serious allegations from both sides that fabrication and concealment has been committed and also use of muscle power, I find, in the interest of justice, that without examining the rival claims of the parties on merits and leaving every points to be argued before appropriate Bench on the next date fixed, let the elections be deferred for the time being upto the next date of listing.

7. *This order is being passed under peculiar facts and circumstances and may not be treated as any kind of adjudication on merit as the Court has not touched the merits nor examined the same.*

8. *Put up this case as fresh on 05.09.2023 along with Writ-C Nos.23389 of 2023, 22931 of 2018, 14172 of 2020, 10955 of 2023, 12576 of 2023, 44505 of 2011, 58180 of 2010, 37846 of 2008, 32526 of 2010 and 61110 of 2010 showing the names of respective counsels for the parties before appropriate Bench in view of the administrative order dated 05.12.2018 passed by Hon'ble the Chief Justice.*

9. *On the next date, parties shall address the Court regarding right to hold elections.*

10. *It is made clear that none of the parties shall take even a single adjournment on the next date fixed.*

11. *It is further made clear that this Court has not disturbed the election schedule already notified and this deferment is only on the ground of providing right of hearing to the concerned parties on account of connectivity of the matter and has nothing to do with the merits of case."*

It is contended by learned counsel for the applicant that the rival committee was also impleaded as opposite party during the writ proceedings. According to him, the election which was stayed by this Court on 25.08.2023 was held on 25.08.2023 itself and the rival committee was declared as elected.

A Special Appeal Defective No.653 of 2023 has been filed challenging the order dated 25.08.2023 passed by learned Single Judge, wherein the appellate Court, on 04.10.2023, had disposed of the appeal and passed the following order:-

"1.The instant special appeal is directed against the impugned order dated 25.8.2023 passed by the learned Single Judge in Writ Petition No. 27289 of 2023, whereby the election of the committee of management was stayed till next date of listing. The order takes note of the fact that there are serious allegations from both the sides regarding fabrication, concealment and use of muscle power and that the appellants' side was in hurry to hold election on 27.8.2023. Learned Single Judge having regard to the fact that other connected cases were not placed before him, deferred the election process till the next date of listing.

2. Learned counsel for the respondents has raised a preliminary objection regarding maintainability of the instant appeal. He submits that the impugned order is essentially an interlocutory order and, therefore, appeal would not be maintainable. He further submits that as per own case of the appellant, election result was declared on 25.8.2023 itself in which Ashok Katiyar was elected as President and Ashok Kumar Yadav (Appellant no. 3) was elected as Manager .

3. Sri S.C. Dwivedi, learned counsel for the appellant admits that the election result was declared on 25.8.2023 and that the impugned order passed by learned Single Judge has therefore not resulted in any prejudice to the case of the appellant.

4. In view of above admitted facts and own case of the appellant that election result was declared on 25.8.2023 itself, we are of the opinion that no useful purpose will be served in examining the validity of the impugned order or the question relating to maintainability of the instant appeal.

5. The appeal is disposed of with all rights and contentions of parties being left open for being raised before the writ court."

From the perusal of the aforesaid order, it is clear that the special appeal was disposed of leaving it open to the parties to raise the questions before the writ Court as the writ petition is still pending.

No case for contempt is made out.

Contempt application is misconceived and the same stands dismissed.

Order Date :- 18.10.2023

SK Goswami