

Court No. - 5

Case :- WRIT - C No. - 37941 of 2023

Petitioner :- C/M Janta Inter College And 3 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Harishchandra Dubey

Counsel for Respondent :- C.S.C,Krishna Mohan Asthana

Hon'ble Piyush Agrawal,J.

1. Heard Shri Radha Kant Ojha, learned Senior Counsel for the petitioners and Shri Ashok Khare, learned Senior Counsel for the respondent no.5 and learned Standing Counsel for the State-respondents.

2. By means of present writ petition, a mandamus has been sought directing the respondents to conduct the election as per the scheme.

3. With the consent of parties, the present writ petition is disposed of without exchange of affidavits.

4. Shri Radha Kant Ojha, learned Senior Counsel appearing for the petitioner submits that the term of elected committee expired on 22.10.2023, therefore, the process for fresh election was taken up and due notices were issued and the same were published in the newspapers and thereafter, Mohd. Yamin was appointed as an observer and Shri Nitin Singh Chuhan- respondent no.4 was appointed as an Election Officer. The date of election was fixed for 11.10.2023 but the Election Officer by order dated 10.10.2023, adjourned the election with a rider that the future date of election will be notified soon. He further submits that the Election Officer was not competent to adjourn the election and he was required to conduct the election on the date fixed.

5. He further submits that on the one hand, election has been adjourned illegally and on the other hand, the State- authorities has passed an order on 4.11.2023 & 8.11.2023 directing for single operation and also directed for appointment of authorized controller. He further submits that the action of the respondents is with malafide intention.

6. Rebutting to the said submission, Shri Ashok Khare, learned

Senior Counsel appearing for the respondent no.5 submits that the core issue is with regard to validity of membership to which a writ petition is pending before this Court i.e Writ -C No.22103 of 2020.

7. He submits that the said petition may be heard along with the present writ petition, which has seriously been opposed by Shri Radha Kant Ojha, learned Senior Counsel appearing for the petitioners and states that the present petition is only regarding to conduct the election.

8. After hearing the parties, this Court has perused the records.

9. Admittedly, it is not in dispute that the term of the committee expired on 22.10.2023 for which the process was started prior to it but due to order passed by the Election Officer on 10.10.2023, the election could not be held as per the scheme. Further, the sole prayer made in the present writ petition is with regard to hold the election. Furthermore, records reveals that the election which was proposed to be held was subject to the outcome of the writ petition i.e. Writ C No.22103 of 2020 filed by the respondents.

10. In view of the above, the respondent no.4 is directed to declare the date of election within 15 days from the date of production of certified copy of this order and conclude the election in accordance with law.

11. Accordingly, the writ petition is **disposed of**.

12. Counsel for the petitioners is directed to serve the certified copy of this order to the respondent no.4 within a week from today.

Order Date :- 13.12.2023

Pravesh Mishra