

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 11815 of 2022

Petitioner :- Smt. Urmila

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Ankur Singh Kushwaha, Siddharth Khare

Counsel for Respondent :- C.S.C., Sanjay

Hon'ble Jayant Banerji, J.

1. Heard Shri Kamlesh Kumar Yadav (AOR No. A/K 0123/12) holding brief of Sri Siddharth Khare, learned counsel for the petitioner, Shri Sanjay Yadav, learned counsel appearing for respondent no. 3 and Shri Sanjay Kumar Singh, learned Additional Chief Standing Counsel appearing for respondents no. 1 and 2.

2. This petition has been filed seeking to set aside the judgment dated 06.12.2022 and the formal order dated 08.12.2022 passed by the District Judge, Jaunpur, in Civil Revision No. Nil/2022 (Computerized No. TPO10076422022) (Manju vs. Urmila).

3. In the petition, it has been stated that the petitioner contested the election of Gram Pradhan of Gram Panchayat, Shamsipur that was held in the year 2021 and was deceased elected on 02.05.2021. The respondent no. 3 filed Writ-C No 13126 of 2021 (Manju vs. State of U.P. and Ors). The aforesaid writ petition was disposed of by an order dated 06.07.2021 with the following observation:

"The grievance of the petitioner is essentially one which is required to be suited in a duly constituted election petition, and cannot be gone into in a writ petition. The petitioner has his remedy under Section 12-C of The Uttar Pradesh Panchayat Raj Act, 1947, which provides that the petitioner can assail the fourth respondent's election through an election petition.

In case, the petitioner files an election petition, and the same is presented, the Sub Divisional Magistrate concerned, who is the competent Tribunal, shall entertain the same forthwith and proceed to try and decide the same in

accordance with law within a period of six months. However, so far as the present petition is concerned, no relief can be granted in the terms prayed for.

Subject to the above directions, this writ petition is disposed of."

4. It appears that after the order was passed by this Court in the aforesaid writ petition, an election petition under Section 12-C of the U.P. Panchayat Raj Act, 1947 was filed on 22.09.2021. By an order dated 28.09.2022, the Sub-Divisional Officer, Shahganj dismissed the election petition dated 22.09.2021 on the ground that it was not filed within the period of limitation prescribed in the Uttar Pradesh Panchayat Raj (Settlement of Election Disputes) Rules, 1994¹.

5. The aforesaid order was challenged in another writ petition before this Court, being Writ-C No. 31901 of 2022 (Manju Vs. State of U.P. & Ors.), which petition was dismissed on 20.10.2022 with the liberty to the petitioner to approach the concerned District Magistrate by filing a revision as per sub-section (6) of Section 12-C of the U.P. Panchayat Raj Act, 1947. Thereafter, the revision aforesaid was filed before the District Judge, Jaunpur in which, by judgment and order dated 06.12.2022, the District Judge set aside the order of the Sub-Divisional Officer dated 28.09.2022 and directed that the election petition be heard and disposed of in accordance with law.

6. The petitioner has challenged the order of the District Judge on the ground that the delay in filing the election petition could not be condoned, inasmuch as under sub-rule (1) of Rule 3 of the Rules, 1994, a period of 90 days specified, which cannot be extended by the Court. In support of his contention, the counsel for the petitioner has relied upon the judgment of the Supreme Court in **Suman Devi vs. Manju Devi AIR 2018 Supreme Court 3912**. It is contended by counsel for the petitioner that the provisions of Section 5 of the Limitation Act do not govern filing of election petition or their trial. It is stated that the Supreme Court has held that the period of limitation prescribed cannot be extended.

¹ Rules, 1994

7. Learned counsel for respondent no. 3 has opposed the petition on the grounds that firstly, it is stated in the order passed by this Court on 06.07.2021, since the name of the Gram Sabha was wrongly mentioned, a correction application was filed which was allowed by an order dated 25.08.2021. Secondly, it is contended that the Supreme Court in Misc. Application No. 21 of 2022 in Misc. Application No. 665 of 2021 in Suo Moto Writ Petition (C) No. 3 of 2020 had provided that the period from 15.03.2020 till 28.02.2022 shall stand excluded for purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings. It is contended that in the aforesaid order of the Supreme court dated 10.01.2022, it was further provided that in cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. It is, therefore, contended that the order of the District Judge requires no interference.

8. Having considered that rival contentions of the counsel for the parties, it is apparent from the record of this petition that on 06.07.2021, this Court in Writ-C No. 13126 of 2021 had disposed of the petition with a direction that in case the petitioner files an election petition and the same is presented, the Sub-Divisional Magistrate concerned, who is the competent Tribunal, shall entertain the same forthwith and proceed to try and decide the same in accordance with law within a period of six months. The order of the Sub-Divisional Officer dated 28.09.2022, dismissing the election petition on the ground that the election petition is dated 22.09.2021 and as such it is barred by limitation, is contrary to the directions of the Supreme Court in its order dated 10.1.2022 in the aforesaid Suo Moto Writ Petition (C) No. 3 of 2020. It has not been disputed by learned counsel for the petitioner that the election petition was filed on 22.09.2021.

9. Under the circumstances, the order of the District Judge dated 06.12.2022 passed in Civil Revision No. Nil of 2022 (Manju w/o Satya Prakash vs. Urmila w/o Narendra Pratap) requires no interference and this petition is accordingly, **dismissed**.

Order Date :- 6.12.2023

Ruhi H.

(Jayant Banerji, J.)