

Court No. - 17

Case :- WRIT - C No. - 9244 of 2023

Petitioner :- Ram Sumiran

Respondent :- Learned Prescribed Authority/Sub-Divisional Officer/S.D.M., Ram Sanehighat, Barabanki And 7 Others

Counsel for Petitioner :- Piyush Shrivastava, Rajeev Shukla

Counsel for Respondent :- C.S.C., Mohan Singh, Rakesh Kumar Chaudhary

Hon'ble Alok Mathur, J.

1. Heard Sri Piyush Shrivastava, learned counsel for the petitioner as well as Standing counsel on behalf of respondent No.s 1 to 4 while Sri Mohan Singh has put in appearance on behalf of respondent No.5.

2. By means of the present writ petition the petitioner has challenged the order dated 6.10.2023 where the application of the petitioner for being provided a copy of the election petition has been rejected on the ground that he has already been given copy of the petition previously.

3. It has been submitted that with regard to election of Gram Pradhan of Village Manpur Makohiya, Vikas Khand - Banikodar, Tehsil Ramsanehighat, District Barabanki an election petition was filed by respondent No.7 i.e. Ghanshyam challenging the election of the returned candidate i.e. opposite party No.6 i.e. Meera Devi by filing election petition under Section 12 Ga of U.P. Panchayat Raj Act, 1947. The petitioner, who was an unsuccessful candidate in the said election has approached this Court challenging the order dated 6.10.2023. It is stated that the said election petition was dismissed for want of prosecution and on an application being given by the election petitioner the same was restored. The petitioner in the aforesaid circumstances, submits that he has not been given copy of the election petition and consequently made application with the said prayer on 11.9.2023. The Prescribed Authority has rejected the application of the petitioner after recording that copy of the petition has already been given to the petitioner and there is no provision or occasion to give repeated copy of the said petition.

4. There is no averment in the entire writ petition that copy of the election petition was not served upon the petitioner and only it has been stated that some other person has accepted the notice on behalf of the petitioner impersonating his signatures.

5. The question as to whether copy was received by the

petitioner or that his signatures are forged is a question which can be looked into by the Prescribed Authority himself as it involves disputed questions of facts. Once a categorical finding has been made that copy has already been given to the petitioner the said finding cannot be interfered with in the manner as sought by the petitioner by means of the present writ petition. Even the receiving which is allegedly not been made by the petitioner has also not been enclosed and this Court in any case cannot go into such disputed questions of facts.

6. A query was made to counsel for the petitioner as to whether he could challenge the said order after conclusion of the proceedings he did not categorically answer whether he could not could not. It seems that the present petition is merely to procrastinate the proceedings before Sub Divisional Magistrate under Section 12 (Ga) of the Act of 1947. All the issues raised or orders passed in the said proceedings can be adequately challenged after final decision of the election petition and unless some extraordinary circumstance is shown this Court would be reluctant to interfere in the present petition during pendency of the said proceedings. No such fact has been demonstrated by the petitioner necessitating interference by this Court under Article 226 of the Constitution.

7. In view of the aforesaid observations, no ground for interference is made out. The writ petition is accordingly **dismissed**.

(Alok Mathur, J.)

Order Date :- 27.10.2023
RKM.