

Court No. - 8

Case :- WRIT - C No. - 10631 of 2023

Petitioner :- Sanjay Singh

Respondent :- State Of U.P Thru. Prin. Secy. Panchayat. Raj
Deptt. Civil Secrtt. Lko. And 3 Others

Counsel for Petitioner :- Vindeshwri Pandey, Arjun
Gupta, Deepak Kumar

Counsel for Respondent :- C.S.C., Arun Kumar Mishra

Hon'ble Pankaj Bhatia, J.

1. Heard learned Counsel for the petitioner as well as learned Standing Counsel and Sri Nagendra Kumar Khare and Sri Mohan Singh, who have filed Vakalatnama on behalf of respondent no.4. The Vakalatnama is taken on record.

2. The present petition has been filed challenging an interlocutor order dated 28.11.2023, whereby the revisional authority has passed an order for preserving the entire videography, details of recounting as well as the ballot boxes for proper adjudication.

3. The facts in brief are that the respondent no.4 was elected as Gram Pradhan in an election held in the year 2020-21. Subsequently, the said election of the respondent no.4 was challenged by the petitioner by filing an election petition on 01.06.2021. In the said election petition, an order came to be passed on 17.10.2023 directing recounting of the votes. In pursuance to the said order, the votes were recounted and after recounting, the petitioner was found to have obtained higher number of votes, as such, a fresh order came to be passed on 19.10.2023 allowing the election petition filed by the petitioner and set aside the election of the respondent no.4. The respondent no.4 preferred a revision against the order dated 19.10.2023. During the pendency of the revision, an application was moved by the petitioner herein, and the respondent in the revision, praying that the videography of the recounting is preserved. In pursuance to the said interlocutory application, the impugned order dated 28.11.2023 has been passed for preserving the videography as well as the ballot boxes.

4. The contention of the Counsel for the petitioner is that the petitioner had never requested for preservation of the ballot boxes and the order to that extent is bad in law. He argues that the order would be violating the well settled law that secrecy of

the ballot boxes is sacrosanct of election. He relies upon the Full Bench decision of this Court in the case of ***Ram Adhar Singh vs The District Judge and others; MANU/UP/0358/1985***. In the light of the submissions, the Counsel for the petitioner prays that the writ petition deserves to be allowed.

5. The Counsel for the respondents, on the other hand, argues that the law cited by the Counsel for the petitioner would have no application to the fact of the present case, as the recounting has already been directed and in terms of the said recounting, further orders cancelling the elections have already been passed. He argues that the revisional court has passed the order only to preserve the material evidence, which if required to be perused, can be done at the time of hearing of the revision. He argues that no directions for reopening or recounting of ballot papers have been done by means of the impugned order, as such, there is no question of law violating any secrecy of the ballot as argued by the Counsel for the petitioner.

6. Considering the submissions made at the bar and on perusal of the impugned order, it is clear that the order is interlocutory in nature and has not adjudicated or trench upon any rights of either of the parties at this stage, as such on that count alone, no interference is called for in exercise of powers under Article 226 of the Constitution of India.

7. The revisional court is directed to decide the Civil Revision No.13 of 2023, in accordance with law, within a period of three months from today without giving any unnecessary adjournment to any of the parties.

8. In view of above, the writ petition is ***disposed off***.

9. The parties is at liberty to challenge the final order that has been passed by the revisional court.

Order Date :- 7.12.2023

akverma