

Court No. - 6

Case :- MATTERS UNDER ARTICLE 227 No. - 6322 of 2023

Petitioner :- Mohammad Ayyub

Respondent :- State Of U.P. Thru. Collector Dist. Barabanki And 14 Others

Counsel for Petitioner :- Anil Kumar Pandey

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

Hon'ble Rajnish Kumar,J.

Heard, Shri A.K.Pandey, learned counsel for the petitioner, learned Standing Counsel and Shri Gaurav Vishwakarma, Advocate holding brief of Shri R.K.Chaudhary, learned counsel for respondents no.3 and 4.

Learned counsel for the petitioner submits that the petitioner has filed Election Petition No.5 of 2023 challenging the Election of the returned candidate i.e. respondent no.5/Alok Kumar Tiwari. After service of notice, respondent no.5 filed an application under Order VII Rule 11 read with Section 151 CPC, which has been dismissed by means of order dated 07.12.2023 i.e. after passing of about 7 months of the filing of the petition, whereas the election petition should be disposed of within 6 months. He relies on order dated 17.12.2015 passed in **Munni Lal Versus State of U.P. and 5 others**, in which relying on the judgment of Hon'ble Supreme Court in the case of **Purkhrem Sharatchandra Singh Versus Mairembam Prithviraj @ Pratihiraj Singh; JT 2015 (9) SC 113**, the Division Bench has held that the principle which has been applied by the Supreme Court in dealing with the Election Petitions filed under the Representation of the People Act should also be applied to election Petitions filed under the provisions of the Act, which is in respect to election of Zila Panchayat and directed to decide the election petition on priority basis without granting unnecessary adjournments within a period of six months.

He further submits that another Election Petition No.1 of 2023 challenging the election in question has been filed by one Pooja Singh, in which also the election of respondent no.5 has been challenged. The application under Order 7 Rule 11 CPC was filed by the respondent no.5 in the said case, which has been dismissed by means of order dated 12.06.2023, which has been challenged before this court in the Matters Under Article

227 No.3299 of 2023; Alok Tiwari Versus Addl.District and Sessions Judge/Special Judge, SC/ST Act/Election Tribunal and 14 others and this court has been pleased to stay the proceedings of the said Election Petition. However that may not affect the Election Petition of the petitioner because the Election Petition of the petitioner is being tried separately and they are not connected. Accordingly he makes an innocuous prayer for a direction to opposite party no.2/ Additional District Judge,Court No.2/Election Tribunal, District-Barabanki to dispose of the election petition within some stipulated period fixed by this court. For which there is no objection by learned counsel for the respondents, who are present.

Considering the nature of order proposed to be passed issuance of notice to respondents no.5 to 15 is dispensed with.

Without entering into the merit of the case the petition is **disposed of** with liberty to the petitioner to move an application for expeditious disposal of the Election Petition No.05 of 2023; CNR No.UPBB010045652023; Mohammad Ayyub Versus Alok Kumar and others pending before the concerned court. In case any such application is moved within a period of one week from today, the same shall be considered and appropriate orders shall be passed thereon within a period of two weeks thereafter and the Tribunal shall proceed accordingly expeditiously as per law.

(Rajnish Kumar,J.)

Order Date :- 18.12.2023
Banswar