



2025:UHC:6343-DB

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI G. NARENDAR
AND
HON'BLE SRI JUSTICE ALOK MAHRA

SPECIAL APPEAL NO. 195 OF 2025

21ST JULY, 2025

Ashok Kumar Maurya Appellant

Versus

State of Uttarakhand & others Respondents

Counsel for the appellant : Mr. S.K. Mandal and Mr. Ajeet Kumar Yadav, learned counsel

Counsel for the respondents : Mr. B.S. Parihar, learned Additional Chief Standing Counsel assisted by Mr. S.M.S. Mehta, learned Brief Holder for the State / respondent Nos. 1 and 5

: Mr. Sanjay Bhatt, learned counsel for respondent Nos. 2 to 4

The Court made the following:

JUDGMENT: (per Hon'ble The Chief Justice Sri G. Narendar)

This intra-court appeal is preferred being aggrieved by the order of the Learned Single Judge, whereby the Learned Single Judge has been pleased to accept the contention of the respondents that in the light of the bar under Article 243-O of the Constitution of India, the writ petition challenging the election process cannot be entertained.

2) It is the case of the appellant / petitioner that the notice for removal of encroachment was issued three days



prior to the election notification and it was with the deliberate intent and motivated. The action has been initiated with the intent to prevent the petitioner from contesting the elections.

3) Mr. Anand Singh Negi, Assistant Engineer (III), Irrigation Sub Division, Khatima is present before the Court and has placed before the Court certain photographs which are not conclusive of anything, and has also placed one register of encroachers to whom notices have been issued pursuant to an order of this Court dated 26.12.2024, whereby this Court acting on a report of the Sub Divisional Magistrate, wherein six encroachers have been named, proceeded further and directed the constitution of a three member committee by the District Magistrate, and further directed that all encroachments be looked into and be removed. It is the case of the departmental Engineer that pursuant to the direction committee has been constituted, and encroachments have been identified, and notices have been issued to 80 persons. The notice regarding the encroachment would stand even as of today and has not been interfered with by any authority, superior authority or by a court of law.

4) In that view, we do not find any ground which will warrant interference with the order of the Learned Single Judge. Though with regard to the maintainability of petitions relating to the rejection of nomination this Bench has held otherwise. That apart, it is seen that the election is slated to



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be held on 24.07.2025, and any direction at this stage on account of paucity of time is likely to disrupt the election process.

- 5) In that view the appeal is rejected with liberty to the appellant to approach the Tribunal and demonstrate that there is no any encroachment committed by him, and if such finding is rendered, it is open to the appellant to sue the department and, in particular, the officer for appropriate damages.
- 6) The register placed before the Court is directed to be returned to the learned Additional Chief Standing for the State.
- 7) As a sequel thereto, pending application, if any, shall stand closed.

G. NARENDAR, C.J.

ALOK MAHRA, J.

Dt: 21ST JULY, 2025
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