



IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/S) No. 1662 of 2026

Minita Joshi

... Petitioner

Versus

State Election Commission & Anr. ... Respondents

Mr. V.B.S. Negi, Senior Advocate, assisted by Mr. Ankush Negi, Advocate for the petitioner.

Mr. Devashish Rana, Advocate, i/b Sanjay Bhatt, Advocate for the respondent no. 1.

Mr. Dushyant Mainali, Advocate, for the respondent no. 2.

J U D G M E N T

Hon'ble Manoj Kumar Tiwari, J.

Petitioner's election as Member, Kshetra Panchayat, Bajunia Haldu was challenged by respondent no. 2 by filing election petition, which was presented before District Magistrate well within time, on 14.8.2025.

2. Since District Magistrate did not refer the election petition for adjudication to the District Judge for considerable time, therefore, respondent no. 2 again filed election petition before District Judge, which was numbered as Election Petition No. 6/2025. Petitioner raised the question of maintainability of that petition by contending that election petition, which is not referred by District Magistrate, cannot be entertained. Objection raised by petitioner came up for consideration before learned District Judge on 11.12.2025 and learned District Judge rejected the objection holding that



since the election petition presented before District Magistrate is now referred for adjudication, therefore, question raised regarding maintainability has become meaningless and directed for consolidating both election petitions. This order passed by District Judge on 11.12.2025 is challenged in this writ petition.

3. Learned Senior Counsel appearing for petitioner submits that Election Petition No. 6 of 2025 was directly filed before District Judge, without being referred by District Magistrate, therefore it would not be maintainable. In support of this contention, he relies upon para 27 of the judgment dated 19.8.2020, rendered in Writ Petition (M/S) No. 3350 of 2019, which is reproduced below:

“27. Since in the entire Act, there is no provision providing for the mode & manner of making reference of election dispute to the District Judge, therefore, with a view to remove any doubt, which may be raised later, in the interest of justice, this Court by exercising its extraordinary powers under Article 226 of Constitution of India, provides that petitioners, who are aggrieved by the result of election of Members and Office Bearers of Kshettra Panchayat or Zila Panchayats can raise an election dispute by presenting the Written Petition before the District Magistrate and the District Magistrate shall refer such dispute to the District Judge for adjudication and the District Judge shall thereafter enter into such reference. It would be incumbent upon the District Magistrate to refer the election dispute to the District Judge as early as possible; but, not later than 48 hours from the date of such presentation. It is further provided that limitation would stop running, the moment, the Written Petition is presented before the District Judge.”



4. The aforesaid contention raised on behalf of petitioner is without any substance. The provision for reference of the election petition by District Magistrate was made in the aforesaid judgment in view of the apprehension expressed by petitioners in that case that District Judge may refuse to entertain an election petition, if filed directly before him, without being referred by the competent authority. With a view to remove ambiguity in the statute, it was provided in para 27 of the judgment that anyone desirous of challenging the election of a candidate may present election petition before the District Magistrate, who shall refer it to the District Judge within 48 hours and limitation would stop running thereafter. The said judgment, however, cannot be pressed into service for contending that without reference by District Magistrate, District Judge has no authority to entertain an election petition.

5. In the present case, election petition was presented before District Magistrate on 14.8.2025, therefore respondent no. 2 was not required to file another election petition before the District Judge and it was incumbent upon the District Magistrate to refer the election petition to learned District Judge within 48 hours. Respondent no. 2 appears to have filed another election petition before District Judge within period of limitation, as a matter of abundant caution. There is no statutory prohibition against entertaining an election petition, which is directly filed before the District Judge,



therefore learned District Judge was justified in rejecting the objection raised by petitioner regarding maintainability of the election petition.

6. Thus the view taken by learned District Judge cannot be faulted and there is no scope for interference. Writ petition, however, is disposed of by providing that learned District Judge shall proceed to hear Election Petition No. 6 of 2025 and Election Petition No. 10 of 2025 shall stand disposed of.

(Manoj Kumar Tiwari, J.)
13.7.2026

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KUMAR