

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/S) No. 2080 of 2025

Shanti Sharma

.....Petitioner

Versus

State Election Commission and others

....Respondents

Present:

Mr. Deep Chandra Joshi, Advocate for the petitioner.

Mr. Ganesh Kandpal, D.A.G. and Mr. Suyash Pant,
Standing Counsel for the State.

Mr. Sanjay Bhatt, Advocate for the respondent no.1.

Hon'ble Ravindra Maithani, J.(Oral)

The challenge in this petition is made to the order dated 09.07.2025 passed by the respondent no.3/Assistant Election Officer/Sub Divisional Magistrate, Ramnagar, District Nainital. By which, the nomination of the petitioner for contesting election of Village Pradhan has been rejected. The petitioner has also sought other reliefs.

2. Heard learned counsel for the parties and perused the record.

3. Learned counsel for the petitioner would submit that the petitioner is eligible to contest the Gram Panchayat election. She fulfilled all the legal requirements. Her name has wrongly been not included in the voter list. Therefore, the order rejecting her nomination is bad in the eye of law. Accordingly, the impugned order deserves to be set aside and petition allowed.

4. Learned counsel for the respondents would submit that the nomination of the petitioner has rightly been rejected. At this stage, the

writ petition may not be entertained in view of the Article 243-O of the Constitution of India.

5. Learned counsel for the respondents further submit that the petitioner may now file election petition in view of Section 131 (4) (h) of the Uttarakhand Panchayati Raj Act, 2016 (“the Act”) on the ground of rejection of the nomination.

6. Article 243-O clause (b) of the Constitution of India reads as follows:-

“243-O. Bar to interference by courts in electoral matters.- Notwithstanding anything in this Constitution.-

(a)

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.”

7. Section 131 (4) (h) of the Act reads as follows:-

“(h) (1) The election of a person, Chairman or as members of a Panchayat including the election of a person appointed as a Panch shall not be called in question except by an application presented to such authority within such time and in such manner as may be prescribed on the ground;

Provided that the election has not been a free election by reason that the corrupt practice of bribery or undue influence has extensively prevailed at the election,

(ii) that the result of the election has been materially affected-

(i) by the improper acceptance or rejection of any nomination; or

(ii) by gross failure to comply with the provisions of this Act or the rules framed thereunder.”

8. The election process is already underway. The challenge to the rejection order is made on the ground of improper rejection. This may a ground that the petitioner may take in the election petition, in view of Section 131 (4) (h) of the Act.

9. Therefore, at this stage, this petition may not be entertained. Accordingly, the petition deserves to be dismissed at the stage of admission itself.

10. The writ petition is dismissed *in limine*.

(Ravindra Maithani, J.)
11.07.2025

Jitendra