



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 2531 of 2026

Lalit Tiwari Alias Lalit Kishore Tiwari

.....Petitioner(s)

Versus

State Of U.P. Thru. Its Addl. Chief Secy./Prin.
Secy. Deptt. Urban Development Lko. And 3
Others

.....Respondent(s)

Counsel for Petitioner(s)	: Nadeem Murtaza, Alina Masoodi, Karuna Shankar Tiwari, Mandeep Kumar Mishra, Utkarsh Vardhan Singh, Utsav Mishra
Counsel for Respondent(s)	: C.S.C., Anurag Kumar Singh, Shailendra Singh Chauhan

Court No. - 5

HON'BLE ALOK MATHUR, J.

HON'BLE SYED QAMAR HASAN RIZVI, J.

1. Heard Shri Utsav Mishra learned counsel for petitioner, Shri Anuj Kudesia, learned Additional Advocate General, assisted by Shri Shailendra Kumar Singh, learned Chief Standing Counsel & Shri Yogesh Kumar Awasthi, learned Standing Counsel for the State of U.P., Shri Shailendra Singh Chauhan, learned counsel for respondent no. 5 and perused the material available on record.

2. The dispute in the present case pertains to the non-administration of oath to the petitioner by the Mayor of Lucknow, for the last 5 months despite the fact that the petitioner has been declared as a returned candidate as Corporator of ward No. 73 Faizullaganj -III, Lucknow in an election petition decided by learned Additional District Judge, Lucknow. In the said judgment dated 19.12.2025 the election of the returned candidate was set aside in an election petition preferred by the petitioner and the petitioner has been declared elected.

3. Despite the order having been passed by election Tribunal in December 2025 ,in favour of the petitioner declaring him to be the elected candidate, the petitioner was not administered oath and consequently, was unable to participate in the proceedings of the Municipal Corporation and hence the present writ petition was filed.

4. During the pendency of this petition numerous opportunities were given to the respondents and explanation was sought as to why the oath has not been administered to the petitioner. On 17/03/2026. This Court had directed the learned counsel appearing on behalf of the Municipal Corporation to seek written instructions from the Mayor of the Municipal Corporation, Lucknow. As per the instructions sent by the Mayor it was stated that the returned candidate had filed an appeal against the order of the election Tribunal dated 19/12/2025 in the High Court which is pending and in case, oath is administered petitioner, it will create a incongruous situation in case, the appeal preferred by the returned candidate is allowed by the High Court and the judgment of the election Tribunal is set aside.

5. The instructions of the Mayor of Lucknow were duly considered by this Court in its order dated 25/03/2026. This Court in paragraph no. 27 it has been observed that prima facie the stand of the Mayor as evidenced in the written instructions dated 19.03.2026 provided by her as quoted earlier appears to be in the teeth of statutory provisions referred hereinabove such as Section 77 and 85 as also the '*defacto doctrine*'. The State Government has also written to the Mayor, Municipal Corporation, Lucknow for making necessary compliance as per Section 85 (1) and (1A) way back on 04.02.2026.

6. The Court in very clearly in unequivocal terms proceeded to record its observation in paragraph no. 28, which is quoted below:-

"28. In view of the above, it is provided that ill affects, if any, flowing from Section 85 (2) of the Act, 1959 shall not visit the petitioner. Further, the Municipal Commissioner and its mayor being bound by the statutory prescription contained in Section 77 of the Act, 1959, they shall not violate the same."

7. Despite the said order, the respondents did not proceed to administer oath to the petitioner and when the matter was taken up on 11/05/2026, this court in its order had considered the fact that the Mayor of Lucknow was duly intimated about the decision of the election Tribunal and the State government has also directed the District Magistrate to do all that is needful to comply with the judgement of the election Tribunal, and accordingly the case was directed to be listed on 13/05/2026. It was further directed that in case, oath is not administered to the petitioner then the District Magistrate, Municipal Commissioner, Lucknow and the Mayor of Lucknow were to be to personally present before this Court and

explain as to why oath of office has not been administered to the petitioner.

8. On 13/05/2026. The District Magistrate, Lucknow as well as the Mayor of Lucknow to not appear personally as directed but had moved applications for exemption from appearance. This Court was informed that the oath has still not been administered to the petitioner, and after considering the previous order, the following order was passed. The relevant portion of which is as under :-

"4. Undoubtedly, all the issues raised before this Court stood decided. We further find that the stand of the Mayor was also recorded in paragraph no.5 of the aforesaid order, wherein the Mayor was of the view that the order of the Election Tribunal, i.e., the Additional District Judge has been assailed in an appeal and, therefore, she had thought it fit to await the outcome of the aforesaid proceedings. Even the aforesaid contention was rejected on the strength of Section 77 of the Act, 1959, which is as follows :- "77. Taking effect of order.—An order of the District Judge under Section 69 or Section 70 shall take effect on the day next following the day on which the same is pronounced."

5. A perusal of Section 77 of the Act, 1959 leaves no doubt for concluding that the order of the District Judge under Section 69 or Section 70 has to take effect on the day next following the day on which the same is pronounced. Even if it is assumed that there was some delay in communication of the order of the District Judge, still there is no denial of the fact that the same is within the knowledge of the Mayor, Lucknow, which is evident from the order dated 25.03.2026. Despite having full knowledge, still the petitioner has not been administered the oath of Corporator.

6. This Court is of the considered view that the democratic process cannot be subverted by the Mayor and even in writ proceedings, if it is found that the Mayor is deliberately not administering the oath to the petitioner, then in exercise of jurisdiction under Article 226 of the Constitution of India, appropriate steps and directions can be passed by this Court to ensure compliance of the statutory provisions and hold the respondents accountable for the duties conferred upon them by the Act, 1959.

7. Today, an application for exemption from appearance has been filed on behalf of the District Magistrate, Lucknow. The said affidavit

has been filed by one Prafull Kumar Sharma, Chief Development Officer, Lucknow and the person who is holding the additional charge of District Magistrate, Lucknow. In the said affidavit, paragraph no. 6 clearly states that the Joint Secretary, Government of U.P., Urban Development Section-1, by letter dated 04.02.2025 instructed that action may be taken in accordance with Sections 85 and 85(1-K) of the Act, 1959 and the said letter was also endorsed to the Mayor, Lucknow and the Municipal Commissioner, Lucknow. It has further been stated that in continuance of the letter dated 10.02.2026, they have directed the Municipal Commissioner, Lucknow Municipal Corporation to ensure compliance and implementation of the Court's order dated 19.12.2025 in accordance with the provisions of Sections WRIC No. 2531 of 2026 12 85 and 85(1-K) of the Act, 1959 and to bring the matter to the notice of the Mayor, Lucknow.

8. Accordingly, it is from the aforesaid affidavit we find that there is no justification whatsoever forthcoming for not administering the oath to the petitioner. We have also analysed the statutory provisions as well as the rules made thereunder. According to Section 85(1-A), the Commissioner of the Division or in his absence, the District Magistrate shall administer the oath or affirmation to the Mayor and, thereafter, the Mayor shall administer the oath or affirmation to the Corporators who have been declared elected. Such meeting shall be presided over by the Commissioner of the Division or in his absence, the District Magistrate. The meeting so convened shall be treated to be the first meeting of the Municipal Corporation. Accordingly, it is evident that Section 85(1-A) would apply to the first meeting which is held after the elections. With regard to the situation at hand, we find that the same has been taken care of in the Uttar Pradesh Nagar Mahapalikas (Oath) Rules, 1968. Rule 4 of the aforesaid Rules is quoted hereinbelow:- "4. Oath how and where to be made in certain cases - (1) Every person who is elected as Nagar Pramukh otherwise than at the time of the Constitution or reconstitution of the Mahapalika shall be administered the said oath or affirmation by the Commissioner of the Division and, in the absence of the Commissioner, by the District Magistrate, at the meeting of the Nagar Pramukh, Sabhasads and Vishisht Sadasayas, to be convened by the Mukhya Nagar Adhikari as soon as may be after the said election. (2) Where any person other than the Nagar Pramukh owing to his absence or to any other cause is unable to make the oath or affirmation at the meeting referred to in sub-section (1-A) of Section

85, or where such person is elected or co-opted otherwise than at the time of the constitution or reconstitution of the Mahapalika, he may, within the period allowed by sub-section (2) of that section, be administered the oath or affirmation either

(a) at one of the first three meetings of the Mahapalika held after the date on which his term of office commences, by the person presiding at such meeting; or

(b) after previous appointment.....either by the Nagar Pramukh or by the District Magistrate." (Emphasis supplied by us)

9. From the above, we find that Rule 4(2)(b) of the aforesaid rule would be clearly applicable in the present case, where the oath can be administered to the petitioner either by the Nagar Pramukh or by the District Magistrate. We further find that once the election of the Corporator has been declared to be void and another candidate has been declared to be elected, then such an order of the Election Tribunal/Additional District Judge has to be given effect to in letter and spirit. We further find that despite an appeal having been filed against the order of the Additional District Judge, Lucknow, there is no interim order staying the said order of the Election Tribunal till date and, consequently, there is no reason for not giving effect to the order dated 19.12.2025.

10. Accordingly, in light of the aforesaid, we direct the Mayor, failing which the District Magistrate or the Commissioner of the Division to administer the oath to the petitioner in all circumstances within the next seven days. An affidavit of compliance will be filed before this Court by the next date of listing.

11. List this case on 21.05.2026. 12. In case the oath is not administered, then the authorities directed to appear today shall appear again on the next date of listing. 13. Exemption applications filed today on behalf of the Mayor, Lucknow as well as the District Magistrate, Lucknow are allowed subject to the condition that they will comply with the order passed today."

9. It is evident that in the above order this Court had directed the Mayor of Lucknow to administer the oath to the petitioner within next seven days and an affidavit of compliance was to be filed before this Court today. It was further provided in case the oath is not administered, then the District Magistrate, Lucknow as well as the

Mayor of Lucknow were to appear before this Court.

10. An application for exemption from personal appearance has been filed on behalf of the Mayor of Lucknow stating that she has suffered from heatstroke and is admitted in the Command Hospital on 20.05.2026.

11. In the affidavit of Mayor, there is no mention with regard to the compliance of the order of this Court nor any averment as to whether she even intend to comply with the order of this Court.

12. We find that the petitioner has been declared elected in the election petition by the learned Additional District Judge, Lucknow, and as per Section 77 of the Act of 1959, an order passed by the District Judge under Sections 69 and 70 of the Act of 1959 shall take effect the day next following the day on which the same is pronounced.

13. We find that after expiry of substantially long length of time, the petitioner has not been administered oath thereby he has been unable to participate in the democratic process and the Mayor of Lucknow who has a statutory responsibility to administer oath to the petitioner has thoroughly failed to comply with either the statutory requirements of administering the oath and further failed to comply even the direction issued by this Court in the present writ petition. We further find that there is no legal impediment in administering oath to the petitioner to enable him to function as a Corporator in the Municipal Corporation or any cogent reason nor reasonable explanation has been offered for not administering oath to the petitioner by the respondent.

14. We further find that no cogent explanation is forthcoming on behalf of the Mayor for not administering the oath to the petitioner despite clear statutory prescription in this regard and also clear direction of this Court in its previous order dated 13.05.2026. We have categorically asked Sri Shailendra Singh Chauhan learned counsel for the Municipal Corporation to inform us as to within what period the oath would be administered to the petitioner, but no answer whatsoever was forthcoming apart from stoic silence, which clearly indicated that the respondents have consciously decided not to administer oath to the petitioner, despite clear directions having been passed by this Court.

15. We have further been informed that the previous orders of this Court dated 11.05.2026 where this Court had directed the personal appearance of the Mayor, was assailed before the Hon'ble Supreme Court in Special Leave Petition (Civil Diary No. 30127/2026 and in the said Special Leave Petition, the following orders has been passed:-

"1. I.A. No.156048/2026 i.e., permission to file SLP is granted.

2. The learned counsel for the petitioner seeks permission to withdraw the special leave petition. Permission as sought for is granted.

3. The special leave petition is, accordingly, dismissed as withdrawn."

16. It is in the aforesaid circumstances that the most important question to be considered by us is with regard to ensuring the compliance of the orders passed by the High Court.

17. This Court is of the considered view that constitutional courts are not powerless spectators where their orders are repeatedly ignored by statutory authorities. The power under Article 226 necessarily includes ancillary and consequential powers to ensure effective implementation of judicial directions. Mere issuance of orders without securing compliance would reduce the authority of the Court to a nullity.

18. Accordingly, considering the persistent non-compliance despite repeated indulgence shown by this Court, and with a view to ensure immediate implementation of the judicial order and preservation of constitutional governance, this Court finds it appropriate, at this stage, to direct that the administrative and financial powers attached to the office of the respondent-Mayor of Lucknow shall remain suspended/ceased, to the exception of administering oath to the Corporator, till compliance of the order dated 13/05/2026 is ensured. The said direction is not punitive in nature but is intended solely to secure obedience to the orders passed by this Court and to prevent further obstruction in discharge of statutory duties.

19. The respondent-Mayor, despite repeated opportunities granted by this Court, has continued to obstruct compliance of a ministerial and statutory obligation. Such persistent defiance cannot be permitted to defeat the authority of this Court or frustrate democratic governance. The Hon'ble Supreme Court in **Priya Gupta v. Ministry of Health and Family Welfare (2013)11 SCC 404** observed that where repeated non-compliance of judicial orders is demonstrated, constitutional courts are empowered to adopt coercive and consequential measures to ensure obedience, for otherwise judicial directions would be reduced to mere paper declarations.

20. The order of suspension of the administrative and financial powers of the respondent-Mayor of Lucknow as directed above, is therefore, not punitive in character, but a consequential Constitutional measure intended to secure compliance of judicial orders and prevent

continued obstruction of statutory duties. The authority to exercise administrative and financial powers cannot be permitted to operate as an instrument for defeating orders passed by a constitutional court. In the peculiar facts of the present case, this Court is satisfied that unless coercive constitutional measures are adopted, the repeated disobedience of the respondent would render the orders of this Court a mockery and seriously undermine the rule of law itself.

21. We also take note of the judgement of a division bench of this Court headed by the Hon'ble Chief Justice in **Special appeal defective 276 of 2024 State of U.P through its Additional Chief Secretary and Others vs Jai Singh and Others** it was held:-

"17. The attitude of the officers, in ignoring the orders passed by the Court

till such time that notices in the contempt petition are issued, cannot be

approved. On many occasions, despite issuance of notices in contempt

petition, no action is taken and it is only when the directions are issued for

personal presence that for the first time, the officers care for the orders

passed by the Court. There are hardly any appeals which are filed without

application seeking condonation of delay, which conduct on part of the

appellants cannot be appreciated/encouraged."

22. Learned Additional Advocate General shall immediately communicate this order to the Government for passing of appropriate orders ensuring compliance of the orders of this Court.

23. It is made clear that the functioning of the Municipal Corporation shall not be stalled and the same shall be carried out in accordance with the provisions of the Municipal Corporation Act treating the absence of the Mayor of Lucknow to be a casual absence.

24. Learned Additional Advocate General has submitted that as per the affidavit filed on behalf of the District Magistrate, he has duly communicated the order of this Court. The affidavit is taken on record.

25. List this case on 29.05.2026.

26. The respondents are directed to file affidavit of compliance by the next date.

27. The personal appearance of the District Magistrate is exempted, until further orders of this Court.

28. In case the order of this Court is not complied with by the next date, the Mayor of Lucknow shall appear again and file her personal affidavit showing cause as to why contempt proceedings be not initiated against her for deliberate and willful disobedience of order of this Court.

May 21, 2026

A. Verma/Virendra

(Syed Qamar Hasan Rizvi,J.) (Alok Mathur,J.)