

Case :- WRIT - C No. - 28528 of 2023

Petitioner :- Amit Kumar Nigam and another

Respondent :- State Of U.P. and 3 Others

Counsel for Petitioner :- Siddarth Jaiswal

Counsel for Respondent :- C.S.C.,Anand Tripathi,Vikrant Pandey

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Sri Anoop Trivedi, learned Senior Advocate assisted by Sri Vibhu Rai for the petitioners; Sri R.K. Ojha, learned Senior Advocate; Sri Amarendra Pratap Singh, learned Senior Advocate; Sri Ashok Kumar Singh, President, High Court Bar Association, Allahabad and Sri Vikrant Pandey, Advocate for the respondents.

2. Present writ petition has been filed for a direction commanding the respondents to conduct the election of the Executive Committee of District Bar Association, Allahabad for the year 2023-24 as per the bye-laws of the Association with assistance of Elders Committee. Further prayer is made to appoint an Observer for free and fair election during the pendency of the instant writ petition.

3. The matter was heard on 18.10.2023 and we had passed a detailed order with following observations:-

"3. The matter was taken up on 26.9.2023 and on the said date, Sri Rakesh Pande, learned Senior Advocate, who had appeared on behalf of Elders Committee of District Bar Association, Allahabad, had apprised that the Elders Committee had already proposed for convening the election on 13.10.2023. On the said date, Sri Vikrant Pandey, Advocate had also entered appearance on behalf of the outgoing office bearers and had assured that full cooperation would be extended to the Elders Committee including the release of necessary funds for conducting the election. Once the Elders Committee had stepped into for smooth election process and tentative date was also fixed for the election, then the Court had also given leave to the Elders Committee to conduct the free and fair election of the District Bar Association, Allahabad. Accordingly, we had also requested the Commissioner of Police, Prayagraj to provide all requisite help to the Elders Committee for smooth election.

4. Today, it is pressed that due to unavoidable circumstances, the election could not be held and now, the Elders Committee had proposed to hold the election of the office bearers of the District Bar Association, Allahabad on 27.10.2023.

5. In this backdrop, learned counsel for the petitioners has placed reliance on the order dated 4.5.2022 passed in WRIT - C No.- 10085 of 2022 (Santosh Kumar Mishra Vs. State of U.P. and 8 Others) wherein for supervising the election of the Bar Association of the District Court and for ensuring the election process free and fair manner, the Court had authorised the Registrar General of this Court to nominate an observer from amongst the Registrars to oversee the election process. It is also requested that similar indulgence may again be extended and the Registrar General of this court may nominate an observer from amongst Registrars to oversee the election process.

6. Finally, The parties are with the agreement that the City Magistrate, Prayagraj may be nominated as an observer for ensuring the election, which is scheduled on 27.10.2023.

7. Accordingly, we nominate the City Magistrate, Prayagraj as an Observer and he will oversee the election, which is scheduled to take place on 27.10.2023. Meanwhile, the observer shall be competent to report this Court, in case there is any difficulty, which may hamper the free election process. The observer may also seek necessary help from the local police. The Commissioner of Police, Prayagraj is also directed to provide adequate police force so that the election may be held on the scheduled date without any hassle. We also request to the members of the bar to cooperate in the ongoing election process.

8. Let the result of the election be declared by the Elders Committee and the same may be apprised to the Court through a report to be submitted by the observer appointed under this order.

9. Put up this matter for orders on 01.11.2023, as fresh."

4. Again the matter was listed on 01.11.2023 and on the said date, it was informed that on account of chaos and nuisance created by some faction of advocates, the free and fair election could not be ensured. On the said date, inspite of adequate police protection and even the City Magistrate, who was also present in response to our previous order, could not stop the nuisance created by the Advocates. In this backdrop, we had taken cognizance and passed the following order on 01.11.2023:-

"3. The matter was taken up on 26.9.2023 and on the said date, Sri Rakesh Pande, learned Senior Advocate, who had appeared on behalf of Elders Committee of District Bar Association, Allahabad, had apprised that the Elders Committee had already proposed for convening the election on 13.10.2023. On the said date, Sri Vikrant Pandey, Advocate had also entered appearance on behalf of the outgoing office bearers and had assured that full cooperation would be extended to the Elders Committee including the release of necessary funds for conducting the election. Once the Elders Committee had stepped into for smooth election process and tentative date was also fixed for the election, then the Court had also given leave to the Elders Committee to conduct the free and fair election of the District Bar Association, Allahabad. Accordingly, we had also requested the Commissioner of Police, Prayagraj to provide all requisite help to the Elders Committee for smooth election.

4. Today, it is pressed that due to unavoidable circumstances, the election could not be held and now, the Elders Committee had proposed to hold the election of the office bearers of the District Bar Association, Allahabad on 27.10.2023.

5. In this backdrop, learned counsel for the petitioners has placed reliance on the order dated 4.5.2022 passed in WRIT - C No.- 10085 of 2022 (Santosh Kumar Mishra Vs. State of U.P. and 8 Others) wherein for supervising the election of the Bar Association of the District Court and for ensuring the election process free and fair manner, the Court had authorised the Registrar General of this Court to nominate an observer from amongst the Registrars to oversee the election process. It is also requested that similar indulgence may again be extended and the Registrar General of this court may nominate an observer from amongst Registrars to oversee the election process.

6. Finally, The parties are with the agreement that the City Magistrate, Prayagraj may be nominated as an observer for ensuring the election, which is scheduled on 27.10.2023.

7. Accordingly, we nominate the City Magistrate, Prayagraj as an Observer and he will oversee the election, which is scheduled to take place on 27.10.2023. Meanwhile, the observer shall be competent to report this Court, in case there is any difficulty, which may hamper the free election process. The observer may also seek necessary help from the local

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police. The Commissioner of Police, Prayagraj is also directed to provide adequate police force so that the election may be held on the scheduled date without any hassle. We also request to the members of the bar to cooperate in the ongoing election process.

8. Let the result of the election be declared by the Elders Committee and the same may be apprised to the Court through a report to be submitted by the observer appointed under this order.

9. Put up this matter for orders on 01.11.2023, as fresh."

3. In response to the aforesaid order, Shri Ambrish Shukla, learned Addl. Chief Standing Counsel has produced the instructions dated 30.10.2023 sent by the City Magistrate, Prayagraj, appending therewith the report of the Observer-City Magistrate, Prayagraj dated 27.10.2023, which is taken on record. In the said report, it is informed that on account of chaos/ nuisance created by the Advocates at the time of polling, the smooth election could not be ensured by the Elders Committee, even though adequate police protection was accorded and even City Magistrate was also present on the spot.

4. In response to the aforequoted order, learned counsel for the petitioner has also filed supplementary affidavit dated 30.10.2023, which is also taken on record. On the basis of supplementary affidavit, this much is contended that in response to the previous order, inspite of best endeavour by the Elders Committee as well as by the Observer, the peaceful election could not be ensured. Even in the present matter, an FIR being FIR No.0520 dated 28.10.2023 under Section 188, 171 (Ga), 171 (F) and 427 IPC has also been registered at P.S. Colonelganj, Commissionerate Prayagraj.

5. Considering the facts and circumstances of the case, we direct that the investigation in question is to be ensured under the supervision of Police Commissioner, Prayagraj and the status of the investigation be apprised on the next date fixed. The City Magistrate, Prayagraj shall also submit entire report along with videography of the entire incident on the next date.

6. We also request Shri T.P. Singh, learned Senior Counsel as well as Shri R.K. Ojha, learned Senior Counsel (both Ex-Bar President) to assist the Court in the matter. A copy of the instructions sent by the City Magistrate, Prayagraj has also been supplied to them.

7. Put up this matter as fresh on 20.11.2023.

8. Let a copy of this order be given to learned Addl. Chief Standing Counsel free of cost today itself for necessary compliance."

5. Today, when the matter is taken up, all the Senior Advocates have proposed and gave the names of Senior Advocates of the District Bar Association so that the Court may appoint the Elders Committee. With the consensus, following names have been suggested as Elders Committee and accordingly, we appoint the following eight members of the Elders Committee:-

"1. Sri Narendra Dev Pandey, Advocate

2. Sri Radha Raman Mishra, Advocate

3. Sri Hari Sagar Mishra, Advocate

4. Sri Dinesh Srivastava, Advocate

5. Sri Rajendra Srivastava, Advocate

6. Sri Raghav Singh, Advocate

7. Sri Sita Ram Singh, Advocate

8. Sri Pramod Singh Neeraj, Advocate"

6. In our previous orders, we had given leave to the Elders Committee to hold the free and fair election of the District Bar Association, Allahabad and accordingly, the City Magistrate, Prayagraj was also nominated as an Observer to oversee the election, which was scheduled to take place on 27.10.2023. The entire exercise was held to be futile exercise as on the said date, the free and fair election could not be ensured. Accordingly, it is also submitted that three Senior Advocates may be entrusted for ensuring the free and fair election of the District Bar Association to be held under their able guidance.

7. We propose to appoint Sri R.K. Ojha, learned Senior Advocate, Sri Amarendra Nath Singh, learned Senior Advocate and Sri Bharat Pratap Singh, Advocate as Observers for holding free and fair election under their able guidance, which has also been voluntarily accepted by the counsel, who represents the parties. Accordingly, we appoint Sri R.K. Ojha, learned Senior Advocate, Sri Amarendra Nath Singh, learned Senior Advocate and Sri Bharat Pratap Singh, Advocate as Observers for holding free and fair election. We have further asked learned counsel for the parties to apprise the tentative date for holding the election and they suggest that the election may be ensured on 29.11.2023. Accordingly, we direct that the election of the District Bar Association is to take place on **29.11.2023**.

8. It is also informed that Rules of the District Bar Association, Prayagraj 2023 has also been framed by the District Bar Association, Prayagraj, wherein detailed procedure has been provided. Much emphasis has been placed that the contesting Advocates may be restrained not to use banners, posters or wall writings or any kind of allurements directly or indirectly such as dinner, get-together etc. and the same may be strictly prohibited, which may also amount to an act of corrupt practices.

9. Accordingly, we direct that the candidates and their supporters have to follow the following directions:-

"A. No candidate or his supporter shall fix/paste any Poster, Hand-Bills, Photographs or other election materials within the High Court Premises including the Civil Court, Allahabad (Prayagraj) and all other Courts in U.P. or anywhere in the city.

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B. No candidate or his supporters shall take out any procession in the corridors of the Court or premises, no slogans or loud voices for the purposes of canvassing shall be permitted, so as to disturb the functioning of the Court.

C. Use of objectionable language and any obstruction in election process by any candidate or member of the Bar will not be permitted.

D. It is expected that all the candidates or their supporters refrain from lunch, dinner etc. or any kind of parties in public place for any reason whatsoever so as to maintain the dignity and profession till the election of the respective Bar Association is over.

E. No candidate shall be permitted to disturb the functioning of the Courts in any manner whatsoever during the course of canvassing.

F. No candidate shall be permitted to use electronic or other instruments for canvassing or soliciting voters within the court premises.

G. Banners, Cutouts and Posters anywhere within the court premises in U.P. or outside the court premises shall not be permitted and the candidates shall voluntarily remove such publicity material within a week.

H. Any violation of the conduct rules the advocate involved shall be tried by the State Bar Council and also for contempt of court.

I. Only the advocates, who bear the COP Card/Bar Association Membership Card/Bar Council Identity card, would be permitted to enter into the campus on the date of election."

10. The entire election proceedings must be ensured under CCTV Camera. The outgoing Elders Committee, who is represented by Sri Vikrant Pandey, Advocate has also assured that full cooperation would be extended to the newly constituted Elders Committee including the release of necessary funds for conducting the election. It is further directed that the outgoing office bearers are restrained forthwith not to enter in the ongoing election process or to continue with the office and the post, which they had held.

11. The aforementioned Elders Committee will start functioning from tomorrow onward for ensuring smooth and fair elections.

12. The Commissioner, Prayagraj Division, Prayagraj is further directed for ensuring the necessary deployment of force for avoiding any untoward incident during the election.

13. List this matter again on 30.11.2023 at 2 PM.

Order Date :- 20.11.2023

RKP